

X

ARGUMENT
OF
CHARLES G. LORING, ESQ.
ON BEHALF OF THE
EASTERN RAIL-ROAD COMPANY,
AT A HEARING ON THE
PETITIONS OF DAVID PINGREE AND OTHERS,
AND W. J. VALENTINE AND OTHERS,
BEFORE
THE RAIL-ROAD COMMITTEE

OF THE
MASSACHUSETTS LEGISLATURE,

BOSTON, MARCH 7, 1845.

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MASSACHUSETTS LEGISLATURE.

BEFORE THE COMMITTEE ON RAILWAYS AND CANALS.

Hearing on the Petitions of

DAVID PINGREE, and other, and of
W. J. VALENTINE and others.

FRIDAY AFTERNOON, *March 7, 1845.* }
In the Hall of the House of Representatives. }

THE Committee having been called to order by the Chairman, the Hon. LINUS CHILD,—

Mr. LORING said :

Mr. Chairman, and Gentlemen of the Committee,—The questions before the Committee are of great importance, both because of the principles of State policy in relation to the system of rail-roads, and of the magnitude of the private interests, involved.

At no period has it been of greater moment to consider gravely, and settle cautiously the leading principles of legislation, which are to govern the policy of the State in reference to this great and extremely important subject. And never was it of more serious concern to recognize and determine the relative rights and interests of the State, and of those who, having received charters at its hand, have proceeded to invest vast amounts of private property under them, and in faith of the inviolability of the contracts, which they imply or expressly contain.

That there are rights on both sides necessarily implied by and resulting from the existence of such charters,—and that they are as sacred as any others,—no one will have the hardihood to deny, who does not repudiate all moral and legal obligations whatsoever. And that there are public *interests*, of far greater moment than the mere gratification of popular will, involved in the exercise of the powers by which these charters are created, cannot be questioned by any man who is not prepared to substitute the popular excitement of a day for the eternal principles of justice and good faith.

The petition of David Pingree and others, and the remonstrance of the Eastern Rail-road Company, seem to involve all the principles of State policy, and all those affecting the relative rights and obligations of the State and persons holding charters under it, and to be the only ones now before the Committee about which controversy can exist. And I therefore shall commence with them, and, for the present, confine myself exclusively to them. And I hope to satisfy the Committee, that the grant of the prayer of the petition would be alike inconsistent with all the principles of public policy in reference to a well arranged system of rail-roads; uncalled for by any public exigency that will justify the exercise of legislative power in taking private property for the purpose; and incompatible with the good faith of the State towards the remonstrants.

Before proceeding, however, to the consideration of these questions of policy, law, and fact, I beg leave to notice some of the remarks of the counsel for these petitioners in the opening of his case.

It was said, and has been repeated more than once, that the present location of the Western terminus of this road at East Boston, was to benefit speculators in land. We gave notice, that if these statements were made, we should require proof. Not a particle has been offered; though all the parties are alive and at hand. We came fully prepared to disprove it, and show it to be an unfounded calumny. And I am instructed so to declare it; I do therefore deny it,—and claim of the Committee to discard this charge from their minds, or give opportunity for investigation, before permitting it to have any influence upon them. Nor would it be unreasonable for

us to go further and say,—that such groundless imputations so boldly and broadly made, without a shadow of proof to rest upon, may well throw great distrust upon the other statements and assertions made, and alike unsupported by evidence.

Another position taken, was, that this Committee were not sitting as a judicial tribunal, to decide upon the *merits* of the questions presented, as had been recently suggested; but were only exercising what the gentleman calls the *judicial* functions of a grand jury,—to ascertain whether there was cause for presenting a bill to the House.

As the gentleman has officiated as counsel, Committee man, and witness; throughout the case, according to the exigency of the moment, I must infer that he made this remark as a Committee man, and not as counsel, inasmuch as a grand jury has no judicial powers whatever; and examines only far enough to find whether there be sufficient ground of suspicion to warrant a trial, and hears only one side. Whereas this Committee not only hears both sides of the evidence and argument, and decides in the first instance; but is the only tribunal that does so. And when we consider the great and delicate questions of policy, law, and mutual rights, agitated before this Committee, and necessarily passed upon by them, it is obvious, that its duties are in the highest degree judicial, and involve all the obligations of impartiality, examination, deliberation, and conscientious decision, that belong to the highest judgment-seat in the land.

Before proceeding to the investigation of the law and the facts, I cannot forbear allusion to the great and overwhelming power which the Legislature exercises on these occasions, and which, for the purposes of this hearing, is in great measure, if not substantially vested in this Committee.

The power of the Legislature, incidentally to impair or destroy private property, even without compensation, *certainly* exists in many cases, and is under no other control than its sense of justice. But it is a power to be most carefully and scrupulously exercised, and never without a commanding public necessity. It is vested in the Legislature for the highest and best of purposes. If abused, it accomplishes the lowest and the worst. It becomes a foul despotism.

In governments where the power resides in the privileged few, abuses of this sort, if extensively practised, finally arouse the passions of the people, and the rulers are hurled from their thrones. In this country, the danger from such abuse is greater, because here the people are the only rulers, and fear no one; and there is seemingly no appeal. But let us not deceive ourselves: although we have no rulers, to be startled by the opposition of rebellious subjects, our whole political existence depends upon the confidence of the people in the government, or *rather in each other*. And if mistrust of the purity and good faith of the State, or honesty of the people, once become general,—if it be extensively felt, that property is not safe in the keeping of the government, such as it is, it will not be long before those who have it, will be seeking protection under one of a different form.

Security is the great end of government; and for that, men will sacrifice not merely its forms, but much of its substance. And, although there may be no other appeal, there will be one from our fears and our necessities, to our desire of security. And all history tells, that while the first step from want of faith in the government, and security in property, is anarchy,—the next and no less certain one, is substantial despotism.

I now proceed to consider the grounds upon which the petitioners rest their claims.

I.—The great number of petitioners.

Upon this much stress was laid in the opening, and it has been adverted to at intervals throughout the hearing, and demands consideration.

It is indeed a formidable array—counted by hundreds and tens of hundreds, and designed, and expected, to produce an imposing, if not overwhelming and conclusive influence.

I had occasion, in a former hearing on another petition, to remark, that the weight of a petition is to be estimated by the reasons assigned for it—and not by the number of names attached to it;—that if the thirteen hundred persons who signed that petition had but one reason to urge in its support, it was entitled to no more weight, in the decision of such a

question, than if signed by one man. It was after all but the same thing thirteen hundred times repeated.

But when it is considered *how petitions* are “*got up*”—and with what *different motives*, and for what *different reasons*, and with what *various degrees of knowledge and intelligence* upon the subject, the parties subscribe to one,—it will be manifest that, upon a *question partaking*, as this does, of a *judicial character, and involving the rights and interests of others, and the public faith and welfare—numbers are of very little consideration*.

The ease with which names are obtained to such petitions is familiar to every one. Some will sign under the influence of a pique or prejudice against the corporation whose interests are attacked—or against some one or more of its officers, from some actual or fancied personal neglect or slight; some because a new road will accommodate them rather better, by passing nearer to their house or store, or meeting-house; some because they anticipate that they shall obtain transportation at a cheaper rate: and many, and probably the chief number, merely because they are asked to sign, and do it thoughtlessly, believing that it can do no harm, or because it is more easy than to say no! and some perhaps with sufficient knowledge of the subject, and the idea that the public good will upon the whole be promoted.

Now it is obvious that where the prayer of any petition is *adverse to the private interests and rights of others*, or may *involve a sacrifice of the public faith* with individuals, or any interference with private property,—all the reasons above suggested, excepting the last, are in truth and justice so many against the propriety of granting it—instead of weighing in its favor.

Surely the interests and rights of others, and the public faith, and private property, are not to be invaded or trifled with, to gratify personal piques and resentments, nor to accommodate other private interests, nor to enable persons to travel at a cheaper rate than reason and public policy require, nor to gratify those who sign a petition merely to avoid saying no—or with no thought or knowledge of the consequences of its being granted.

On the contrary, so far as these are the motives for any such petition, they are reasons for suspecting and rejecting it.

Again, petitions of *this sort* ought not to be esteemed as INTENDED to bias the judgment and decision of the Legislature, but merely as *claims for its full consideration of the subject*. And any attempt to use them as means of popular influence in such a hearing as this, is a palpable abuse of the right of petition; an impeachment of the integrity, wisdom and impartiality of the Legislature; and an injustice to many of the petitioners themselves.

Consider, what are the nature and subjects of this inquiry?

Is it not whether the highest and most sacred power of the Legislature shall be exercised, that of taking the property of one set of citizens and placing it in the hands of another? Is it not whether the private property of the present Eastern Rail-road Company shall be sacrificed or impaired in greater or less degree? Is it not whether the prayer can be granted consistently with the good faith of the State to the remonstrants? Does it not involve the strictest scrutiny into the necessity or expediency of the sacrifice, and its compatibility with the honor of the State? Does it not require careful and impartial investigation, and weighing of various evidence—and the just application of the great principles of eminent domain, and of private property, to that evidence?

And are these matters to be settled and disposed of by *popular influence* merely, whether coming in shape of resolutions, or harangues, or petitions? I respectfully submit that it cannot be so. The questions arising upon applications of this sort, (as was justly said the other day,) are of a strictly judicial character, to be heard and decided upon evidence and law—and not by popular clamor in any form.

The petitioners are truly and properly *parties on one side*, and the *remonstrants parties on the other*. The one party is seeking to take from the other that which the other claims the right to retain. And it is a plain departure from first principles, and from all ideas of justice, to allow the numbers and influence of either side to affect the decision of the right. *That stands forever, and immutably the same*, let the authority of numbers or popular feeling be on which side

it may. And this right the Committee, I know, will seek out—and when found, implicitly obey, without fear and without favor towards any party, however imposing in numbers, or however sustained by popular clamor.

Indeed, sir, I should feel that I was doing injustice to the great body of these petitioners, if I did not avow my conviction of their concurrence in these views. I have no belief that they have signed these petitions *in the expectation or wish that they should be granted at all events*; or that the Legislature should infer that they had, individually, carefully considered the case, and upon a full view of the merits of both sides, thus expressed their opinion of the propriety and justice of a grant of their prayer; and still less that they should be esteemed desirous of creating a popular influence to sway the decision, or control the judgment, of the Legislature. They doubtless signed for the purpose merely of bringing the subject emphatically before the Legislature, as one *worthy of its immediate and most careful consideration*,—and relying that it would be decided upon those principles of public faith and policy, *which should prevent any unjust sacrifice of the rights of others*. This is the only legitimate, honest purpose, for which they could sign. *They appear here just as parties appear in court*—each trusting in the right of his own side—but *neither claiming to demand what is not justly his due*—nor to control the tribunal by the weight of his personal influence.

So far from believing that the majority of these petitioners desire to have any undue influence result from their thus subscribing their names, if we could strike off all who became parties, by reason of personal pique, or ill-will to some one or more of the officers of the corporation remonstrating, and all who considered themselves as having a direct interest in the question, and all who are interested but who prefer honesty to thrift, I would cheerfully submit the decision of the question to the remainder.

The only plausible argument that can be suggested as furnished by the number of petitioners, is, that it is proof of the public want or necessity. But a moment's examination shows this to be entirely fallacious. For as the petitioners are all indiscriminately admitted as witnesses, all their rea-

sons which can operate in favor of the petition may be shown in evidence—and thus be fairly weighed, encountered and considered. And it is therefore very certain that every possible reason that induced any one to subscribe is now before this Committee. And the *reason* can be no better nor worse for the number that put it forward. The reason is the same, and must stand or fall by its own weight. Thus all the inhabitants of Danvers might sign because they think it would be advantageous to that town to have a rail-road through it—and for no other reason. And yet it might be clearly shown that this was no good reason for a rail-road such as is asked for, but, on the contrary, that the *public good* would be equally, *or much better promoted*, by a branch from the present road to Danvers; and that it would ultimately be better for Danvers itself, that the petition should not be granted. So all the inhabitants of Salem, and of Boston, might sign it because anticipating a reduction in the rate of fares, if successful; and yet it might appear, upon full evidence, that so far from producing any permanent reduction, it would ultimately tend to an augmentation of the rates of fare; or that such reduction would be a violation of public faith.

It is plain, therefore, that the mere numbers of signers of the petition is no proof whatever of any public necessity, nor of the expediency of the grant,—but that *the reasons they assign* are alone worthy of consideration. To them therefore let us look, and see their real value, and place them in the scales against those of the remonstrants, and see which preponderate.

But if regard is to be had to numbers of parties on the respective sides, I array the inhabitants of Salem who have property at stake which will be injured, and the thousands of stockholders who have invested their property in this road, relying upon the public faith—the widows, trustees, mechanics, and people of small means, who have sought a safe and profitable depository under the charter of the remonstrants—and ask whether the claims of those who have actually paid their money, and must lose it if a new road be made, are not entitled to as much respect as those who have invested nothing, and are only looking for profit?

Before, however, proceeding to the questions directly at issue, it is proper to remind the Committee that it appears, from various evidence, that these petitions were signed under a general belief that the establishment of another road would cause *a lower rate of fares* on both ; and that this sufficiently accounts for the facility with which subscribers were procured, who acted under that influence without reflection upon the consequences to the rights of others, or any enlightened and well considered views of public expediency, or even of their own interest.

In the views which I ask leave to present, I shall first consider the petition to be in effect for a new road from Salem through Danvers, Lynn, and Saugus, to a junction with the Boston Rail-road Extension Company, in Malden. Such is the express prayer of the petition of David Pingree and others, and all the others, being in aid of it, are to the same effect. It is true, that the counsel has stated, that the Committee saw fit, after these petitions were presented to the Legislature, to withdraw that portion which prays for a connection with Salem. No proof of any such authority in the Committee was adduced. We deny any such authority on their part. The *petitioners* have never been called together, since they subscribed, and the petition delegates no such power. At the town meeting, where this Committee was appointed, it has not been pretended, that any thing was said about cutting off any part of the road. The Committee had only general powers to manage the affair. But these powers must have been to carry it through,—not to mutilate and destroy. If the Committee could cut off Salem, they may Lynn, Saugus, Boston. We deny, therefore, the authority of the counsel to vary the petition, and we say that it still is one from Salem ; or else that there are no petitioners before the Committee. No persons have signed any petition for a road from *Danvers only*. It is an entirely distinct proposition.

But, after all, it is plain from every thing in the case, and the statement of the counsel and his witnesses, that this striking off of Salem, is a mere pretence, and that a road *from Salem* through Danvers is the real object in view. This was sufficiently proved by the conduct of their leading wit-

ness, Mr. Daniels, who, when repeatedly and earnestly interrogated,—whether they would accept a charter with a condition contained in it, that the road should not be connected with another to Salem,—refused to answer the question in any other way than by saying, that they wanted one without any restriction. And when the pressure upon the witness, to answer the question plainly and fairly, became intolerable to the counsel, he was compelled to say, that they would take the charter, with such a condition, if obliged to, relying upon a *better* Legislature next year to remove it. And as he is not only counsel but committee man and witness too, no doubt can exist that connection with Salem is intended as essential to their plan. This further appears from the whole current of the testimony on the part of the petitioners, and the estimates which they have put in; many of their witnesses, upon being asked where the custom of the road was to come from, enumerating Salem among the places; and the estimates containing Salem in express terms or by necessary implication.

Nor is the mode of accomplishing this end any longer a secret. It is not to be left dependent upon any future act of the Legislature. The means are already in hand, and the examination of the gentleman in his capacity of witness, at the close of the hearing, developed the whole scheme. It appears that a corporation was established at the last session, authorized to construct a road from Georgetown *through Danvers to Salem*, with power to enter upon the road of the remonstrants,—and if the parties cannot agree upon the terms, then the Georgetown and Danvers Company may enter in such manner as shall be most convenient for the public. Stat. 1844, chap. 141.

It further appears, that the gentleman, who is both of the Committee and counsel in this case, and twelve others from Danvers, are corporators in that charter; that they had a meeting during the pendency of this petition, and before the withdrawal of the connection of the road proposed with Salem; and, to adopt his own expressive language, “that they will use that charter as they may see fit in reference to this eastern road;” though, indeed, no such assurance could be necessary,—for having the power, there could be no question of their intention to use it.

I shall have future occasion to advert to the consequences of such connection, but merely use these facts now, to establish the position, that the road intended to be obtained under this petition, is substantially, and, in truth, one *from Salem to Boston, thus constituting a parallel road.* And that the petitioners rely upon withdrawing a very large, if not the chief portion of the travel on the present road between Salem and Boston, is clear, as their *estimates are for all that the present road now receives from Danvers and the towns adjoining: a great portion if not all of that from Lynn: and a large amount from Salem.*

A glance at the map, before the Committee, shows, that if this road be established, it is a road from Salem, parallel, to all intents and purposes, with the present road; taking precisely the same line of travel at the termini, and the same intermediate travel; inasmuch as Danvers, being only two miles from the principal depot, the travel and transportation from that town, now goes necessarily by this.

And if the proposed road be united, as it is doubtless intended to be, or certainly may be, with the Georgetown road, and that should be extended to Newburyport, according to a petition now pending, there will then be *three parallel roads* through the County of Essex; one passing through all the larger towns on the western side of the county; one through those on the eastern line; and one through the centre, but through no large town, excepting Danvers.

The consideration, therefore, of the policy of the State, in establishing a system of parallel rail-roads, is now forced upon the Committee as a matter which they are called upon to decide. And no question of legislative policy, it is respectfully suggested, ever demanded more careful and deliberate consideration.

And as their own interests are so deeply involved, the remonstrants hope that they shall not be thought obtrusive in briefly suggesting the views they take of this subject.

We make, then, as our first point, that the grant of the prayer of the petitioners is against public policy,—because it seeks for the establishment of a road substantially parallel with one now existing.

The true policy in regard to this species of roads is of the greatest moment.

There are two systems proposed to the Legislature, and its election must be now made. A false step taken in this matter is utterly irretrievable, and will terminate either in the utter loss of vast amounts of capital to those who shall invest, or in imposing for ages upon the people, unnecessarily, heavy taxation for this species of accommodation; in either of which cases the loss to the public is the same, and is the whole amount thus injudiciously expended.

One mode is, to connect the distant points of the country, East, West, North and South, together, by long lines or main tracks as far as possible; and to have branches from them connecting the towns and villages at moderate distances, as the public wants and means may demand. By this mode, all parts of the country would be connected; and the main tracks being made the *centres* of transportation for *neighborhoods* and for *extremities* of the *country*, the corporations would be enabled to make greater outlays for convenience, safety and despatch; and the preservation of their roads, engines and cars in the best possible condition; and to avail themselves of all improvements as fast as invented;—while the sure result would be, a constant reduction of fares corresponding with the increase of custom; thus securing convenient, safe, speedy and cheap transportation of persons and property to every part of the Commonwealth. The interests of the corporations and of the public would be entirely coincident;—constant improvement in the facilities of travelling and transportation of property, and economy, would be the certain result; and no more capital would be expended in the construction of roads and furnishing apparatus for running upon them, than the public necessities should require.

But if parallel roads be established as a system, the consequences must be entirely the reverse of all this. The parallel roads must depend upon the same line of travel; and as the two cannot accommodate more than one could do, the whole capital in the construction and furnishing of the second is so much dead loss—as entirely so as if thrown into the sea. It is entirely unlike other superfluous property, that

can be sold when of no further use. The road can be appropriated for nothing else, and the capital expended in it is buried there forever. And so every cent of increased expenditure in running upon the road, is equally thrown away, and the public thus utterly loses a vast amount of property that might otherwise be used for the advancement of its best interests. Nor is this all, nor the worst. The greater the number of roads dividing the travel, the greater must be the expenses, not only in the original outlay, but of daily management; and, of course, the less the perfection of the road, and cars, and engines, the less frequency of communication and a higher rate of fare.

This is the best that can be hoped, supposing both roads to be able to stand, and that the competition end in a mutual adjustment. Thus, suppose this new line established, and with the same rates of fare charged by the present road. There is no reason to anticipate that there will be any essential increase of transportation, and certainly *none such as could support the new road—*independently of that to be withdrawn from the old one*; no one pretends it.* What, then, must be the consequence? The profits of both, if divided, could not enable either to make improvements,—to lay new tracks, or incur any avoidable expenses for improvements of any sort. The cars would gradually become comparatively incommodeous and unsafe, and would not be constantly refitted and replaced by new ones as now; the engines would be run to the last moment, and delays and dangers from their defects would be frequent; the tracks would be less perfectly preserved and attended to; inferior men, at lower wages, would gradually take place of the skilful and enterprising engineers and conductors now employed, and a much smaller number of trains would be run; and as the present full travel will do but little, if any thing more, at the proposed reduced rates, than pay simple interest on the amount now invested, there could not be sufficient to pay any reasonable profit upon the new capital, and one or both must be in greater or less degree sacrificed, which is a dead loss to the public of just so much property. And supposing the fares to be reduced —what will the public gain? Will not the loss of the convenience and security of double tracks,—of commodious and

often renewed cars,—excellent engines and able engineers,—and of the frequency of communication and of capital stock, be more than a counterbalance for any such saving of fare? Taking, therefore, the best view possible, and is it not evident that this policy is ruinous to individuals, and destructive of the true interests of the people?

But this best side is far from being the most probable result; for experience and history tell us that this sort of competition usually ends in the destruction of the property of one party, and its absorption by the other—and a final raising of the fares far beyond the amounts originally established. Witness the New Jersey rail-roads and canals, conducting passengers between New York and Philadelphia, of which testimony has been given, where three competing corporations, after having reduced the rates of fare to almost nominal sums, and thus destroying themselves, have been at last united in the hands of capitalists, and now press like an incubus upon the public; making them pay a tax upon the \$13,000,000 which all three have cost, instead of a fair sum of about \$3,000,000, for which one sufficient road could be built. And take the proposed road and the present one, and put them both in operation—and suppose the fare of the new line to be reduced to twenty cents, and way travel in proportion. Is it to be believed that the old road will stand by and see its custom withdrawn? Certainly not—but as is usual in such cases, it will probably reduce its fare even lower; and thus the other must be compelled to an equal or corresponding greater reduction—and so they will proceed until one breaks down, and the strongest will swallow up the weakest. Or a combination between the two will take place, and then, having the possession of both roads, and the public in its power, the fares will be raised high enough to pay a high profit on the cost of both—or to indemnify the victor for the losses sustained in the contest. And all of which will come out of the people for whose especial benefit it was instituted. Nor is this all,—during the heat of the battle there will be much danger from the efforts to outstrip each other in speed, and many valuable lives may be lost, that no pecuniary gain could compensate for.

Again, if the proposed road be established, the directors of the Eastern road must now keep up the present rate of fares as long as possible, *all through*, in order to defray their expenses and pay interest on their capital. And afterwards, if obliged to reduce that between Salem and Boston, to compete with the new road, they must keep up that on *other parts of the line*; and so the country below Salem be compelled to pay higher rates for the sake of the people of Danvers.

On the other hand, if the system we contend for be sustained, it will enable the long lines continually to reduce their fares until they arrive at the lowest practicable minimum;—to make double tracks throughout;—to run trains every hour, if public convenience shall require it;—to run branches to every town whose wants and transportation will warrant the expenditure for a few *miles of road*;—to furnish the most commodious cars, with all improvements as fast as invented; the fleetest engines; the most skilful engineers; and civil and accommodating conductors;—and to make all the arrangements which time and experience shall suggest, for improving the accommodations of the public in this most important branch of public accommodation.

We believe this view alone decisive of the question before the Committee. No conceivable benefit to be secured to the town of Danvers, and the little village of Saugus, can outweigh the enormous public evils that must grow out of the establishment of a system of parallel rail-roads. And no case can ever be presented to the Legislature where less cause for it can be shown than here. If this petition be granted, there can be no reason for refusing every other, and the system will have become established, and the future progress of rail-roads paralyzed.

Apart, however, from these general considerations, and in reference to the particular merits of the case in hand, the two great questions that present themselves are:—

I. Whether any such public exigency exists as will *justify* the Legislature in granting a charter for another rail-road from Salem, through Lynn to Boston?

II. Whether such a charter can be granted consistently with a just regard for the interests of these remonstrants, and the good faith of the State?

1st. Is there any public *exigency* that will warrant the Legislature in granting a charter for another road from Salem to Boston?

That a public *exigency* must exist, and that it must be of a *clear* and *indisputable nature*, to justify the exercise of the powers vested in the Legislature for this purpose, has been so recently and fully recognized by this Committee, and unanimously too, that comment upon the subject would be superfluous, if not arrogant. I refer to the report upon the petition of Mr. Livingston and others, Senate document, 1845, No. 30, pp. 4, 5. And this Committee has decided that there can be no such exigency where an existing rail-road furnishes substantial accommodation to the public; and that, in estimating that accommodation, all necessary deductions for injuries which the new road might occasion to the proprietors of other rail-roads and other interests are to be made.

What, then, are the *facts* existing here, tending to prove or disprove the existence of such agency?

In the first place, there is already established a direct rail-road from Salem through Lynn to Boston; and within two miles of the centre of the village of South Danvers, to which a spur is proposed to be constructed. This road is of excellent and safe construction, with double tracks for a great portion of the way, say two thirds, and with a prospect of having them throughout, if it be not interfered with. The transportation is as rapid, and safe, and frequent, as that upon any other road in the country. *More frequent* than between any other termini of equal distance, being statedly *seven* times every day, nearly twice as frequent as any other. The safety of the road is unparalleled in rail-road history. The number of miles run since the opening, is 944,331. Number of passengers, 2,714,855, and not one instance of serious injury has occurred. The punctuality has been remarkable, notwithstanding the occasional detentions incident to all roads, and some which have been peculiar to this. The fare has never approached the amount which the Legislature thought

reasonable when granting the charter; has not as yet given 6 per cent. upon the investment, and was intended to be reduced before the investment was made, and will be so, unless the action of the Legislature should oblige the corporation to retain the present rates in self-defence. The road could safely and conveniently accommodate ten times the transportation that now passes over it, or more. While the proposed road could not carry passengers or freight more quickly, frequently, or safely, between Salem, Lynn, and Boston; would require an outlay of at least \$270,000; the appropriation of large amounts of private property; withdraw a great portion of the fares from the present road, and reduce the value of its stock,—and so indirectly take from others a valuable and great pecuniary interest. And in connection with the Georgetown road, for which a charter already exists, would make three rail-roads through the county of Essex.

What, then, is *the real and substantial accommodation which is to be furnished* to the public,—which the existing roads do not give; and which will warrant the exercise of the highest and most arbitrary power possessed by any government; and the destruction of property belonging to these remonstrants, to an untold amount? And do the petitioners make out a clear and indisputable case of public necessity, such as this Committee has declared to be necessary?

The leading facts relied upon, are, 1st. The accommodation of the inhabitants of Danvers. 2d. And the accommodation of the inhabitants of Saugus. 3d. And the accommodation of the eastern population, by the substitution of an entrance by means of a bridge, in place of the *ferry* which connects the present road with the city.

With regard to the accommodation of the inhabitants of Danvers. Of the claims of that town to rail-road accommodation, no denial is made or intended. The highly respectable and industrious inhabitants of that place, certainly deserve a full share of the favors of the State; as they enjoy that of the respect and confidence of all portions of the people, and of none more than of those interested in this remonstrance. But it is very manifest that there is no necessity for another

rail-road from Danvers, through Lynn and Saugus to Boston, to give them this accommodation. They can be furnished with all *reasonable accommodation*, at very far less expense, and with no sacrifice of the rights or interests of others.

A branch from Danvers to Salem, with cars to meet the regular trains, would give all reasonable facility and despatch; and this the remonstrants have ever been willing to construct, and crave leave to construct, in one of the petitions now before the Committee.

If there were any reasonable pretence, that the public accommodation required a rail-road from Danvers to Boston,—it does not require and would not justify one like that proposed. But it is apparent from the evidence, that the public accommodation does not require any such new road, but that the proposed branch from Danvers to Salem, will serve all reasonable purposes.

It cannot, in the nature of things, be, that every town can be accommodated with a separate road to the metropolis,—merely because that would be the most convenient and desirable for that town. Such a doctrine would lead to the loss of vast amounts of capital uselessly invested in parallel roads, and to a corresponding increase of the rates of fares upon all adjacent roads to pay for it. The true principle, as I have attempted to shew, is to afford every town reasonable accommodation: and when this can be done by connecting it by a convenient branch with a neighboring main road, such a proceeding is the most beneficial, not only to the public, but eventually to the town in question, as securing a much cheaper rate of transportation than could otherwise be possible.

The Eastern Rail-road Corporation have been for some time willing to build a branch for the accommodation of Danvers. This will give to that town all the facilities that can be reasonably demanded; will enable them to reach Boston, it is believed, quite as speedily as they could by any new road, if not more so; *and three times oftener each day than they propose by such new road.*

What, then, are the proposed advantages to be derived to the people of Danvers from a separate road to Boston, on one hand, and the probable disadvantages and losses to themselves, and other persons, and the public, on the other? Let

us see whether the balance constitutes a "clear and indisputable public necessity and convenience," within the rule, as laid down by this Committee.

The proposed advantages are said to be, 1st, Saving of time. 2d. Saving of expense; and 3d. The ferry.

Admitting, for the sake of the argument, which we deny, that there would be a saving of a few minutes in time, and it could not amount to more, is that such a public necessity as warrants the outlay of \$270,000, with incidental charges and expenses of \$40,000 per year for running the road. How many persons would be thus benefited? Whose time saved would be worth that amount of money?

And is the rule to be, that a main road is to be built for every considerable town to the metropolis, because it would be the saving of a few minutes of time to its inhabitants,—more than could be saved by connecting them with some other main road already existing very near to them? If so, where are we to stop, and how are the rights of precedence to be determined? and why must we not have as many railroads to the metropolis, as there are considerable towns in the State? And what is to support them, unless high fares be charged on each; and if higher fares take place, do they not more than outweigh the time saved? The benefit of saving of time, therefore, though undoubtedly of some importance in all cases, can of itself, in this, constitute *no such palpable public necessity as would justify this great outlay*. The time lost, if any, would be far more than counterbalanced by the additional expenditure in constructing and running the new road.

2d. As to saving of expense.—Admit that one will take place; must it not be by taking the income from the present road? And is that income now, more than is reasonable upon the investment? And is it not earned by faithful service? And is it a public necessity to take property from one class of men for the purpose of giving it to another? But, supposing this saving to take place and to be permanent, and what does it amount to? How much per annum? And how does it compare, with interest, on the proposed investment of \$270,000, and \$40,000 per year for running the road? But it clearly appears, that there can be no such saving, and

that the new road will not and cannot carry passengers or freight more cheaply than they are now proposed to be carried over the existing one after the expiration of this month.

Indeed, from the testimony of the counsel himself, as well as the whole current of evidence, it is preposterous to contend that any public necessity exists, that would justify the grant of another road through, or from Danvers to Boston, unless the avoidance of the ferry can be so considered. So that the whole question is reduced to this,—whether the alleged inconveniences of the ferry to the inhabitants of Danvers and Lynn, are such as to justify the outlay of a capital of \$270,000, and the additional unnecessary annual expenditure of at least \$30,000, being equivalent to a capital of \$500,000 more to avoid it? For as there will obviously be very little increase of transportation,—if the new road be established,—and that now existing will be at the same expenses as now, nearly all the cost of running the new one will be so much lost or uselessly expended; and that amount could not be less than \$30,000 out of the \$40,000 or \$50,000 that would be thus appropriated.

We come, then, to the consideration of the subject of the Ferry, about which there has been so much of declamation, and concerning which the petitioners have raked up every unfavorable accident and disaster that has occurred since its establishment, with a zeal and industry that can leave no doubt that every thing ill has been told that can be, and that the extreme worst is before the Committee. And what does it amount to? To nothing more than that, during a period of nine years, there have been occasionally, in the severest storms and frosts of winter, some delays of short duration, and one or two instances in which the boat could not cross by reason of ice, and now and then a detention of a few minutes by the passing of vessels across the mouth of the ferry slips; while the general regularity and punctuality of the boat at all seasons, and in 999 times out of a 1000 at the least, is proved beyond all controversy.

The course pursued by the petitioners in seeking for and introducing evidence upon this point, is most remarkable, and strikingly illustrative of the utter futility and absurdity of their objection. The counsel, in his opening, endeavored to pre-occupy the minds of the Committee by a most florid

and declamatory statement that passengers were tumbled into a boat, and tossed up and down among the ice and waves—losing their way in the fogs, drawn out by ropes, and squeezed together in a narrow passage, and with no opportunity of taking seats in the cars; and concluded by averring, that the people whom he represented had rather pay a reasonable price for their female friends, than be ferried across this *Gulf* for nothing; and, instead of confining their proofs to the present state of the ferry and its admirable accommodations—which alone are the proper subjects of consideration—the petitioners have gone back to the days when the Rail-road Corporation had no exclusive ferry of its own; when the boats were infinitely inferior; the slips of a totally different construction; and every thing comparatively less commodious; and having raked up every petty accident or annoyance that then occurred, have arrayed it in glowing colors as if illustrative of the present state of things. While the counsel for Mr. Valentine and others, not being willing to be outstripped in the race, has assured the Committee, that a ferry is a mere relic of past civilization, unworthy the age in which we live—an *entirely obsolete idea*; and ascending the region of poetry, has described it as fit only as a place of torment for damned spirits. The views presented by both counsel are equally sound and reasonable, and entitled to equal respect, and serve to show how far *prejudice* and *poetry* can warp the judgment, and blind it to the truth.

It is, indeed, rather amusing for the advocate of a Chelsea petition to talk of a ferry as an obsolete idea, when, upon his own statement, that place owes all its prosperity to a ferry, and has increased in population under its influences at the rate of twenty per cent. a year; and with New York and Brooklyn almost in sight, connected by ferries far inferior to this, by means of which a country village has grown into a large and populous city; and with East Boston in sight of the house in which we stand, with its busy population, and numerous houses and workshops, erected or in process of erection, and yearly multiplying, if not doubling, and all owing to this same ferry.

It is in evidence that, at the first establishment of the road, the corporation owning no slips, and having no right to run

a ferry-boat independently of the ferry company, made arrangements for the use of their slips and boats, which were then considered as excellent and well adapted for the service; —but that many inconveniences were soon perceived, and improvements suggested by the difficulties they encountered, all of which led to constant and gradual improvements, until the increase of their business, and their knowledge acquired by this experience, enabled them to build the present safe and commodious slips, and ways, and magnificent boat, which combined exceed, as we are told by witnesses who have travelled extensively, any ferry in the world,—and for the procuring of which they have expended about \$200,000.

And if the inquiry be confined to the detentions or discomforts experienced since the present establishment went into operation, it is hazarding nothing to say, that at no depot or station in any rail-road in the Commonwealth has there been fewer detentions, or accidents, or inconveniences ; and that no equal space of road, approaching a central depot, has been travelled over with fewer detentions. That from the ice has been almost exclusively during the extreme severity of a fortnight in February, 1844, when the steamer was cut out, and was occasioned by the floating ice let loose by that operation—this boat having, until now, kept her own channel clear during the whole time, notwithstanding that every other part of the harbor was frozen up. And even during that fortnight, although there were occasional detentions, as testified to by some witnesses, it appears that others passed every day without detention or interruption. And the utmost that has been proved this winter is a detention of ten minutes by ice floating into the slip.

And so as to detentions by vessels. I submit that the weight of evidence shows them to be actually unworthy of serious consideration—happening sometimes not for three months together, and at others very seldom, generally of three or four minutes duration only, and never more than ten at the most.

Can any road, with a single track, be pointed out where the delays are not greater, for the mere purpose of awaiting the arrival of other trains ? The experienced witnesses examined on this point settle it conclusively in favor of the

Eastern road. And as to the detentions by ice,—in addition to the proof of its infrequent occurrence, it is known that an iron steamboat is to be furnished and run in the harbor hereafter, for the express purpose, among others, of breaking up the ice, and preventing its opposing any obstacle to the passage of vessels. The whole testimony upon this subject must afford to any impartial mind entire satisfaction that this objection exists in the imagination rather than in any substantial reality. We appeal to the personal observation of this Committee for judgment of the nature of this ferry and its accommodations. We have proved that, with this boat and these slips, no storm was ever known that would prevent her safe passage and the safe landing of her passengers; and that her punctuality is almost perfect in all weathers and seasons; while the passenger is alike and perfectly protected from the weather or the heat, both while on board and in passing to and from her.

But as the detentions are the principal subject of complaint, it may be worth while to consider what would possibly be gained by the proposed new route, in security or punctuality. The new route crosses two or more streams by bridges, containing at least five draws; through one of these draws vessels pass over six thousand times annually; through another over six thousand times annually, in seven months; and through the others more or less frequently, and through some of them very often. Now is it, by any means, certain that the detentions from these causes will not very far exceed those of the ferry-boat by the ice or vessels crossing the ferry slips? The experiment has not yet been tried. The probability seems to be that detentions at these draws must be frequent, and very far beyond those at the ferry. One draw must average at least twenty times a day—and the proof in the case is, that it has been raised seventy times in one day. The other must average nearly thirty times a day for seven months in the year; making together an average of fifty times every day, and sometimes one hundred per day—and add seven only per day for the other three days, and we have a daily average of fifty-seven. The chances we say are, therefore, greatly in favor of the ferry. But that is not all. The time to be lost in one case is far more uncertain than in

the other. The detentions of the ferry, by vessels across the path or slips, are proved to be very uniform, three or four minutes only; while those by vessels passing draws are very uncertain, necessarily depending upon the size of the vessel and liability to get caught in the draw, or to get aground.

And as to the safety in these emergencies, the ferry-boat is never exposed to the slightest danger by these detentions, while the trains may be exposed to much in passing draws; for if the train be not stopped seasonably or be started too soon, or any accident or mistake occur, the consequences might be most disastrous. The testimony of Mr. Lee, the superintendent of the Providence road, on this point, is deserving great consideration, who states that, in a harbor crowded as this is with vessels passing to and fro continually, he should think a ferry safer than a bridge, through the draws of which they must pass; and instanced a case in the Providence road where a train went through a draw, by reason of a mistake or accident in its management.

At any rate, as the experiment is soon to be tried, on a road recently built, and has not yet been, it certainly would be well to await the result; and not expend \$270,000 to avoid the delays of a ferry, and find after all that greater ones were incurred by the change.

But a slight reference to the facts in proof show that nothing can be more obviously delusive than any expectation of saving time by the proposed new road. The route from Danvers would be at least $16\frac{1}{2}$ miles long, being rather longer than by a spur, to Salem, connecting with the present road; so that the only possible saving of time would be in the avoiding of the 5 or 6 minutes extra time taken in crossing the ferry. This would, probably, be more than counterbalanced in the long run, by the detentions at the draws,—even if the locomotives were to proceed on to the track of the Boston and Maine Road. But, although that arrangement was anticipated and understood to be assented to, it turns out to be an entire mistake, and that none such has been *or ever can be made*: but that the cars must be detached from the locomotive at the junction, and be attached to one, or some train of cars running on the main road; and this will cause far greater delay than the ferry at every trip. And unless the Boston

and Maine road will run a special engine, which cannot be reasonably expected, the passengers will have the further delay of awaiting the arrival of the corresponding trains of the Boston and Maine road, before they can proceed. These causes of detention, or either of them alone, will cause considerable and very uncertain degrees of delay, as the experience at the junction of the Boston and Lowell road has shewn, the proof of which this Committee must well remember ; and adding to this the delays at the *draws, and the crossing of the two rail-road tracks*, which are passed after leaving Malden, and which must not unfrequently require the trains to stop or slacken their speed ; and no one can doubt that there would be far more punctuality, and speed, and certainty over the present road than over that proposed.

If this ferry caused any want of punctuality in general, it could easily have been shewn, but the contrary has been abundantly proved. And the remonstrants challenge inquiry into the comparative punctuality of their trains, with those upon any road that runs from Boston.

It is further objected, that the ferry is disagreeable to ladies, and renders their use of the road inconvenient, exposing them to unpleasant contact with a crowd, in passing to and from the boat. No ladies have testified to this point ; and I believe that, if the ladies of Danvers and Lynn had been here, to listen to the testimony of the gentlemen from those towns, they would have laughed in their faces. All of us who have friends in that part of the country, and frequent occasion to cross the ferry, and travel in those trains, and who have wives, and daughters, and female friends, who pass up and down, constantly unattended, know the absurdity of these statements. Some of us, indeed, who have the good fortune to be connected with families in Salem and Danvers, must infer that our female friends are less delicate and sensitive than the ladies of Lynn and Danvers,—if they would authorize such objections as have been here represented. But we have no belief that any sensible and delicate woman from Danvers or anywhere else, has ever found any cause of anxiety or complaint, unless, indeed, on some occasion when a great crowd exposed every one to annoyance. And for the credit of the gentlemen of Danvers and Lynn, we must mis-

trust their own statements, when they tell us that they have frequently seen ladies pass from one car to another, unable to find seats. No, sir, that cannot be true. And, undoubtedly, experience will dictate and suggest means of remedying the trifling inconveniences now incurred, by setting apart separate cars for ladies, or by new ticket arrangements.

These are all the objections that have been urged against this ferry, and when carefully examined, they prove almost utterly insignificant. And the probability is, that no way can now be found, so easy, safe, and expeditious, of getting from that part of the country by rail-road, as across this ferry. If the remonstrants had pursued the course taken by the petitioners, in hunting up every accident and detention that had occurred upon *any other* rail-road in the State, at any important station, from their beginnings through their various advancements, in skill, and care, and accommodations, and compare them with those at this ferry, it is believed that the result would be vastly in its favor.

It is not to be denied, that a ferry is less *convenient* and *punctual* than a solid and uninterrupted road would be. But we do deny, that it is less so than two or more bridges, with five or more draws, which must be opened daily from fifty to an hundred times; and assert that it is far more safe. But, taking into view all the disadvantages that have been enumerated, or can be reasonably supposed, there are, on the other side, some peculiar benefits and pleasures. In the pleasant months of the year,—this short passage across one of the most beautiful harbors in the world,—with the city, the shipping, the navy yard, and ships of war in the stream, and the beautiful scenery surrounding on every side, all in full view, and the busy ferry and steamboats plying to and fro, is a most delightful and refreshing change from the dust and heat of the city, as you leave it,—and from the confinement and fatigue of the ride in the cars, as you approach it. It is a positive luxury, which one might seek and pay for, for its own sake. While the opportunity of seeing persons, and selecting your companion for the journey, or interchanging friendly salutations, or of making business appointments or negotiations, is, as has been fully proved by many witnesses, a great advantage, peculiar to this arrangement.

But the question of the convenience or inconvenience of this ferry, and of its comparative advantages or disadvantages over the proposed new road, is not matter of speculation and opinion. It has been fully and fairly tried and settled, and the popular vote of those interested is decidedly in favor of the ferry. It is proved that this Eastern road and that of the Boston and Maine Rail-road Company, unite at South Berwick, so that travellers from Portland and Saco, and places eastwardly of them, have their *choice* to come by this road, with its ferry, or to go by the Maine road, which comes in at the depot of the Lowell road; and that more than three fourths take this Eastern road. This is conclusive of the fact that no practical inconvenience is sustained by crossing the ferry, or that, if any be so, it is more than counterbalanced by the advantages; and would it not be preposterous in face of this *practical* fact, to build a new road, at enormous expense, to counteract a *supposed evil*, which the travelling public thus *demonstrate* that they would not take such other route to avoid?

Nor ought this subject to be passed by without noticing the absurdity of the pretences of the people of Danvers on this subject, who now object to this short and convenient ferry as sufficient cause for an entire new road; but who, when the subject was before the Legislature in 1836, unitedly petitioned in favor of one across the Winnisimet ferry, three times as long, over shoal water, and exposed to an hundred detentions and inconveniences where this is to one. It appears by the Senate document (No. 79) of 1836, page 11, that the inhabitants of Danvers, at a large meeting, *unanimously* adopted resolutions in favor of the route across Winnisimet ferry, and never intimated any other desire, although the subject of a route through Charlestown and another further west, to unite with the Lowell road, were both under consideration. And some of the very witnesses, who now appear to testify so strongly, were among the petitioners for that very route. Mr. Robert S. Daniels, who testified that he believes he did not sign a petition for this route, but for one through Charlestown, appears, as I am informed, at the head of one of the petitions in favor of the Winnisimet route; and Messrs. Allen, Marsh, Upton, Poor,

and Abel Proctor, are also petitioners for the same road-- while Mr. Andrews, Breed, and Mr. Marsh, who are now so earnest for the new road, being owners of estates in Lynn, near the proposed depot, then opposed any rail-road whatever. So the people of Beverly are reported to have been almost unanimously in favor of this route, (page 11;) and that the inhabitants of Lynn generally preferred it. (page 8.)

Now it cannot be pretended that the inconveniences of the ferry have proved greater than were anticipated, for the contrary is notoriously true. (Report, p. 13.) Great improvements have been constantly suggested, and adopted as fast as proposed, and will continue to be so until perfection be attained, if that be practicable. We have, therefore, the positive proof of the petitioners themselves, and the still stronger evidence of the great mass of the travelling public, that this ferry is not obnoxious to any serious practical objection, and that the cry now attempted to be raised against it is to be looked upon as a mere effort for effect, to accomplish another purpose, and not entitled to be considered as any reason for granting the prayer of this petition.

An attempt has been made to put forth the advantages of a change in the depot by the substitution of that of the Extension Company, in the Haymarket, for that now occupied by the remonstrants, as a reason for the new road. This, as a reason for granting a new road, seems too futile and absurd for sober consideration. If a new road is to be granted to every town or region now having one, because a more convenient depot can be selected, what is to be the consequence? Shall one be granted for Lowell, or Worcester, or Providence, because depots nearer to the centre of the city can be obtained? The present depot of this road is directly in the heart of the mercantile business of the city. No better one, for the freight of the eastern country, or accommodation of men of business, can be pointed out. It is directly at the spot where the shipments of the shoes from Lynn, &c. are made, and presents facilities for depositing heavy freight at the depot, for vessels, possessed by no other road in the city. The Committee cannot surely consider this a grave objection to this road, but, properly viewed, the present depot must be esteemed a very great public advantage.

Further, I submit that the great expenditures made by this company for the public accommodation at the ferry, entitles them to the favorable consideration of the Legislature. The Legislature having decided that a ferry was a proper mode of accomodating the public, the company might have remained with the old one as it was, and with the boats ordinarily used as ferry boats here and elsewhere, and which satisfy public expectation. But animated by an earnest desire to render this mode of transportation as convenient and agreeable as possible, and remove every reasonable objection, and prove their desire faithfully to serve the public under their charter, the company has expended over \$200,000, in new ferry ways, boat, depot, &c. So that the passenger now passes from the car or the reception-room under cover, into a boat more like a saloon than an ordinary ferry boat, and from the boat to the car, in not only perfect security from the weather, but in perfect comfort. And it would be a great hardship if the public, after adopting this as a proper mode of conveyance, and thus inducing the stockholders to expend these great sums to make it as perfect as possible, should now render it altogether valueless by substituting another road for the mere purpose of avoiding it.

But we contend that this question is not only practically settled by the voice of the travelling public, manifested in their choice of this route, but that it has been *once judicially settled by the Legislature itself*, and ought not now to be again agitated. The history of the establishment of this road is very instructive on this point, and we think should be conclusive. By the Senate document referred to, it appears that when this charter was granted, the whole subject was before the Committee during an unexampled length of time—there being, as I am informed, eighteen sessions. There were no less than *thirty-four* petitions and memorials from different towns and persons including Salem, Lynn and Danvers. A vast deal of testimony was adduced on all sides. It appears by the report to the Legislature, that the route by this ferry, and one through Chelsea by the Winnisimet ferry, and one through Charlestown by the Navy yard, and another by the way of Charlestown neck to the depot of the Lowell road, were all subjects of examination. The subject

was most elaborately discussed, and after a full and thorough investigation, this route was selected as the best for the public by the Committee, and fully approved and adopted by the Legislature. And we submit that the question having been once settled, ought to be considered as conclusively determined. That it is of dangerous tendency and subversive of all reasonable security, to have it again agitated, and particularly when so large an amount of capital has been invested on the faith of this decision. It was then *emphatically decided* that the public exigency *did not render* necessary *a bridge*, or entrance by way of Charlestown, to avoid this ferry. But that this ferry would afford all the accommodation that the public exigencies and convenience required, and it is, therefore, a solemnly settled question. It was, too, a *settlement of a question of property*, for it was upon the faith of, and in consideration of that settlement, that this vast amount of money was expended.

If the views suggested are correct, we have entirely disposed of the question of public exigency, and proved that there could be no saving of time, expense, or inconvenience, in any degree commensurate with the loss to the public in the expenses of building and maintaining another road, and injuries that would ensue from it to the property of the remonstrants. And if this be so, there is an end of the case, as the absence of a public exigency is the absence of power in the Legislature to grant the prayer of the petitioners. But there are other very important considerations affecting this question, which it is desirable to keep in view, and to which I now ask the attention of the Committee.

And first, as to the policy and propriety of cutting off from the present road any portion of its custom, considered in reference to its claims and interests as a *long road* extending from the city to a great distance into the State of Maine. And I beg to press this view most earnestly upon the attention of the Committee, as one of paramount importance at this crisis of rail-road legislation.

The establishment of any new road, to cut off any essential part of the transportation,—which was relied upon as the means of making this long one from Salem to the eastward *profitable*,—would be alike injurious to the proprietors and to

the public. I do not propose to put this view on the strict ground of vested rights, which seem to be becoming so unpopular, but solely on those of public policy and paternal justice, considering the Legislature as a wise parent, who, however supreme his authority, will dispense his favors with regard to his children's good, and the preservation of their confidence in his justice as well as in his liberality.

Now, nothing is more obvious than this, that the calculations and expectations upon the faith of which long lines are established, embrace *not merely the regions of the extremities*, which *they are to unite*, but also the intermediate *adjacent regions* through which they pass. And that it is essential to their establishment and existence, that the custom which may be reasonably attracted to them by convenient spurs and branches, should not be drawn away by new and independent roads. Whenever a long line is projected, its resources for custom are formed not merely at the termini, but in the anticipated receipts from the towns and villages in the neighborhood of which it runs. And it is well known that many miles must prove unprofitable, so far as the local travel of the neighborhood is concerned; and that the calculation is, to make up for the losses there by the profits of other portions of the road, where it enters a denser population. But if every considerable town or village is to have a distinct road of its own to the metropolis, or to every neighboring town, it is obvious that no long line now existing can continue, and that no new ones will be constructed.

Take the Western road for example. There can be no doubt that, if no road existed between Springfield and Worcester, the public accommodation would require one; and that one could now be built much cheaper than the cost of the present one; and there is now as much claim for one, *considering the town of Springfield alone*, as there is for Salem to have another to Boston. But if one were built, who does not see that it would go near to annihilate the Western road. But if the passengers from Hartford, and from New York by way of New Haven and Hartford, and for Northampton, were to come here in hundreds, and tell you that the fare on the Western road, between Springfield and Worcester, is too high,—and that it is kept up merely to sustain the

rest of the Western road,—and that a road from Springfield to Worcester can now be built for half of the cost of the present one, and run at half the rate of fare,—what answer could you make? Would you not at once reply:—All this may be true,—but when we granted the charter of the Western road we included the route between Springfield and Worcester as one part of it. We knew that the projectors relied upon that portion of the route as one of the principal means of making the whole road valuable,—that they would not have taken a charter for a road from the line to Springfield only,—and that to grant you another road would be to take from them one of the chief reliances upon which they depended, and upon the faith of which they have expended their money, in levelling the mountains and filling the valleys between the Connecticut and the Hudson. Nor do we see any force in your representation that you can now build one cheaper, or carry at cheaper rates of fare;—if roads can be built cheaper now, it is because you are enabled to profit by the skill and experience, and knowledge which those who first took the hazard of building have acquired for you and the public;—it is enough that we have the benefit of that in building new roads, not interfering with others. We should hold it base injustice, to use the means thus acquired at their expense, to destroy them and take from them what we granted, as an inducement to make the efforts that have given us those means. And as to the rate of fares, they are still far less than we thought reasonable, and than the amount which we promised that we would not interfere to diminish,—and we cannot do indirectly what we could not directly. And if we have to pay rather more upon this road than we should if it had been constructed in modern times, we are only paying the debt we owe for the skill and knowledge we have obtained by their efforts and the risk of their capital. Such would be your answer. And would not every honest heart in the Commonwealth say amen?

Now let us apply this argument to the case in hand. The Eastern road was originally established as a long line intended to extend from Boston to Portsmouth, and was chartered to the State line, and has since been completed by union with lines in New Hampshire, to the point of original destination.

It was perfectly understood by all parties that the transportation between Salem and its vicinity, and Lynn and Boston, must be one of the principal sources, if not the chief one, of profit; and that this would counterbalance the comparatively small receipts from other parts of the road, through towns of sparser population. And the statements of receipts abundantly prove this:—

Out of 497,758 passengers, being the whole number in 1844,—	302,815
	30,911

333,726

were between Beverly and Boston, being more than two thirds of the number of passengers. And out of the receipts for their transportation, the total of which was \$188,325 80, those between Beverly and Boston paid \$74,887 86

17,997 58

\$92,885 44

being more than one half of the net receipts—and this being only one eighth in length of the road;—while with all this travel the net income has never amounted to six per cent. upon the investment. It follows, therefore, that the diversion of this travel from this portion of the road will prove entirely destructive of the value of the whole line. Can any injustice more obvious and cruel be perpetrated?

The Legislature, for the sake of the establishment of a long line for the public good, grant one going through populous towns and comparatively uninhabited districts, the projectors relying upon the populous towns as the means of maintaining the whole. The road is built—the public has the benefit—and then the Legislature grants to others the privilege of selecting and cutting out the populous towns, and diverting their custom to other routes; and leave the projectors of the long line to mourn over their lost capital.

Is it conceivable, that any men would invest their money, and take the hazards of losing it, in a long line, if it were then known, that the Legislature would grant such new roads for the most populous neighborhoods? Can any man in his senses say, that the subscribers for this Eastern road, would

have put their names for one cent, if then told, that in a few years, another road would be granted from Salem to Boston? Certainly not. And if such an intention or willingness to create such a road, would have prevented the establishment of this, if declared or known then, can it justly be carried into effect now? If this principle or system be adopted, is it not self-evident that it must be destructive of the long lines, and prevent the creation of any more. Parallel roads, or cross roads, as they will be called, will be established between all considerable towns and villages along the line: each connecting, at some point, with the main road; thus cutting off its chief sources of custom, and upon the faith of which alone, they were or can be established. Nor ought it to be forgotten, that subscribers to petitions for such roads, originating with individuals having some lot, or wharf, or estate, that they think may be made subject of great speculation,—may at all times be easily obtained by setting up the cry against monopoly, or the promise of lower fares, and thus cruel injustice be perpetrated upon the proprietors of established roads, for the real purpose of benefiting private individuals, though ostensibly for the public good.

Again.—The assistance rendered by the State to the Corporation, as an inducement to go on, and for persons to subscribe to the stock, imparted a promise, that no unnecessary interference should be authorized with their business. The State, by this aid, gave the sanction of its encouragement, in the strongest manner, to persons to become stockholders; for no expression of an intention to protect them in the enjoyment of their investment, could be more emphatic than the depositing of this large sum of the public money in their hands, as a pledge of their property as security. And for the State now to grant to a rival and competing corporation, the means of diverting custom from this road, and so to reduce its value, would, probably, render it not of sufficient worth to pay the mortgage.

The report relating to this loan,—and further aid asked for of the Legislature,—refers to the fact, that the stock was principally held by persons of *moderate means*, without surplus wealth, to bestow upon the public, (House Doc. 59, 1845, pp. 5, 6), and advocates the propriety of the assistance as a

means of accommodation and benefit to the stockholders, as well as the public, (p. 11). And can it be, that the State will now come forward, and grant an act, that must terminate in their ruin? Would not such an act, in private life, look like inveigling parties into an investment, for the benefit of the grantor, and the sacrifice of their interests, as soon as his were attained? And can it be considered equitable to take the reward from those who have borne all the hazards of the enterprise, and the heat and burden of the day, and bestow it upon strangers?

Another most important view, applicable to this and common to all the charters granted, presses strongly upon my mind, and I beg leave to present it to the Committee as deserving especial consideration. I refer to the provision in the eighth section of the charter of the remonstrants. In considering the question how far the Legislature may be considered as having entered into an implied contract with the Eastern Rail-road, and whether the grant of another substantially parallel road will conflict with such contract, this section of the charter deserves particular notice. It provides that the Legislature shall have power to regulate tolls and profits, but that they shall not, without the consent of the corporation, be so reduced as to produce less than 10 per cent. per annum.

Now it will hardly be asserted by the most strenuous opposer of vested rights, that the Legislature may do indirectly what it cannot do directly. If it has *expressly agreed* that the enjoyment of *profits* to the amount of 10 per cent. shall be considered a *reasonable compensation* for the hazards of the investment, and expressly stipulates that the State will never reduce it below that amount; can the Legislature authorize the construction of another road, to be used for the same purposes, while this accomplishes all for which it was granted, and thus reduce the tolls below that amount? Is there any substantial difference in principle or effect between an act directly reducing the rate of tolls below 10 per cent. for the benefit of the public, or establishing another road by the side of it, to enable the public to travel over it at a correspondingly cheaper rate? Is not this keeping the promise to the ear and breaking it to the hope? And will the Commonwealth of Massachusetts take her stand by the side of

the Turkish emperor, who, having promised that he would spare the head of an enemy if he would surrender, severed his body asunder? or the pope, who offered to give up the head of a family whom he held captive, if his followers would surrender a fortress, slew,—before he gave him up? or take her stand by the side of a quibbling attorney, who sacrifices the spirit to the letter of the law: and say she does not *reduce* the tolls, but only authorizes others to reduce them? It cannot be! This clause most plainly and unequivocally shows that, when this contract was made, both parties anticipated that it would yield a fair compensation, and that any thing short of 10 per cent. should be so considered. It was upon the faith of that expectation that the remonstrants invested their money, and it involved the most solemn obligation on the part of the State to do nothing to impair it.

Do you, sir, suppose that this investment would have been made, or this road have been built, if to this eighth section had been added a clause reserving the right of the State to reduce the fare, by authorizing the building of another road by the side of it? Every man's mind and heart answers that it would not have been. And shall the Legislature now indirectly interpolate the clause?

The charter petitioned for, if granted, and if the objects of the petitioners be realized, will greatly injure, if not ruin, the road of the remonstrants. And this, if done, will be done by the act of the same Legislature that held out, as an inducement to these remonstrants to invest their money in it, that, if they would do so, the grantors would never interfere to reduce its annual profits below 10 per cent. But I forbear further to press this argument. I leave it to the consciences of the Committee and the Legislature, and should be willing to leave it to the honest and sober-minded of the petitioners themselves, if time and opportunity were given for examination and reflection.

And the same reasoning applies with equal force, whether the proposed road be from Salem through Danvers and Lynn, or from Danvers through Lynn. For, in either case, it is a competing road for the custom relied upon in the establishment of the present road. The testimony, and written estimates, and the statements of counsel—all embrace a large

amount of income from Salem itself—which of course in the original calculations, belonged exclusively to the existing road. They embrace all the custom of the adjoining town of Danvers, which is little more than a continuation of Salem, being indeed once a part of it, and was as properly and reasonably counted upon in the establishment of the existing road as that of Salem itself. And also embrace a very large portion if not the chief of the custom of Lynn, which was of course relied upon as exclusively pertaining to the old road.

And here we cannot but notice the grasping spirit of the petitioners, who, not content with taking the travel and transportation from Danvers and its adjoining towns, and for which they say that the new road is wanted, go out of their way to enter Lynn, through which the present road passes, for the purpose of withdrawing its custom there. The proof is that the proposed road admits of a shorter and more direct route westerly of Lynn, and that its divergence to that place is merely to withdraw the custom now passing upon the old road.

If, however, contrary to our convictions of the total want of proof of any necessity of another road, and of the entire sufficiency of a branch from the present road to Danvers, for all reasonable purposes, the Committee shall see fit to report a bill from Danvers to Boston, we claim that it shall be upon condition that it shall not be connected with any rail-road leading to Salem. The only one with which it can be so connected at present, is the Georgetown and Danvers road; and, as before stated, such connection is doubtless contemplated. But such a union would be obviously most unjust to these remonstrants. The Georgetown and Danvers road was authorized as a branch of the present road to bring to it the custom of Danvers and Georgetown, and the intermediate towns between them, not for the purpose of withdrawing travel from it to another road. Such was the intention of the Legislature, and the understanding of all the parties. And to permit it now to be used for the purpose of diverting the business and destroying the most profitable portion of the existing road, would be an obvious perversion of its original object. Nor ought the power to be given to the pe-

titioners to effect such a perversion as they will possess, if a charter be granted without this restriction.

Nor is this all. The Georgetown and Danvers Rail-road Corporation, now has the absolute right to enter upon the Eastern road at Salem: and the proposed road, if created, is to be a branch of the rail-road of the Boston and Maine Company. The petitioners, therefore, by uniting with those two companies, as it certainly might, and probably would do, or by disposing of its interest to the Boston and Maine R. R. Co., would acquire the power not only of withdrawing the whole custom of Salem and its vicinity from the road of the remonstrants, but also of using it for the transportation of freight and passengers in their cars, *to and from the line of the State*. In other words, any beneficial use of the present Eastern road, would be annihilated at the pleasure of the Boston and Maine Rail-road Company.

Further,—if the accommodation of the people of Danvers require a road direct to Boston, and the Committee are disposed to grant a charter; let it be given direct from Danvers, through Saugus to Boston. Why should it be connected with Salem or Lynn? Why, for the purpose of communication between Danvers and Boston,—should they be permitted to go backwards to another place,—to divert the travel belonging to another road; or pass through a town out of their way, through which another rail-road already passes, merely to withdraw the custom from that? Will the sound-hearted portion of that community hold this to be fair?

Nor can it be reasonably said, that they want a rail-road communication with Salem, too. Do they want it, so that they could build one for that object only, if they had one direct to Boston? Or does any town, so near to another as Danvers to Salem, ever need, or can it ever support a rail-road merely for the transportation between the two places? All experience cries out against it. The idea that any freight would be transported in that manner between places so contiguous, is absurd, in the nature of things, and disproved by the history of every rail-road in the country. And so of the transportation of passengers. But if it were true, that Danvers needed a rail-road to Boston, and also one to Salem for its own purposes, it would not follow that they should be

united, so as to take the travel between Salem and Boston. If they would, and can maintain two such roads, and the Legislature see fit to grant them, let it be under such restrictions as shall prevent any misuse of the other purposes, to the injury of the existing road. Do not let them, under pretence of receiving a rail-road for the accommodation of transportation between Danvers,—and Salem and Danvers and Boston,—have one to take that between Salem and Boston. Such a proceeding would be a palpable injury to the Eastern road, and moral injustice to its proprietors. And whatever may be the feelings and opinions of the honest men of Danvers now,—I have no belief that, in their sober second thoughts, they would desire it.

But let me not be misunderstood by these remarks, as conceding that a charter of a new road from Danvers, with any restrictions or conditions, that can be inserted, could in effect be any thing other than one for another road from Salem to Boston. It is obvious that this is impracticable. The towns of Danvers and Salem, although two in name, are one in substance, so far as rail-road accommodation is concerned : a thickly inhabited street being the dividing line with the citizens of Danvers on one side, and those of Salem on the other. They are as much one town for this purpose, as the different parts of Boston are one city ; and as much united by public and private vehicles and intercommunication. The depot of the proposed road would be about as near to the depot of the existing road, as that of the Lowell road, in Boston, is to that of the Worcester depot, if not nearer : or as that of the Worcester to that of the Eastern road. And we object, therefore, to the road prayed for, however apparently disconnected with Salem, just as we should to one for another road direct from Salem to some other terminus in Boston,—or from Boston to some other terminus in Salem. As much reason now exists for either to accommodate certain portions of those two cities, as exists for a *new road* to accommodate the people of Danvers, while she is so near the present depot, or can be so conveniently accommodated by a spur from it.

But much stress is laid out of doors, in conversation and in newspapers, about the rights and benefits of competition, and free liberty to all to construct rail-roads where they please ;

and it is asked why it is not as just to grant a parallel and competing rail-road, as it was to grant this Eastern Rail-road to destroy or impair the Salem turnpike ? And the same argument was vehemently urged against the Lowell road, as having injured the Middlesex Canal.

The answer, however, seems very plain. There can be no pretence of improper interference or competition where an entirely new and different mode of transportation is introduced, as is a rail-road compared to a turnpike or canal. Turnpikes can never be said to interfere with canals or rail-roads,—nor *either with them, contrary* to the anticipations of the parties constructing them ; because neither is undertaken with the view or idea of preventing the establishment of any *new modes* of transportation that may be invented—but merely that they shall not be needlessly interfered with by the *like modes* affording no better accommodation. But if, in the present case, any equitable ground of objection or complaint existed on the part of the Salem Turnpike Corporation, it was fairly provided for by a clause in the charter, giving them the power to take one quarter part of the stock, whereby they were virtually enabled to convert their road *into the rail-road* if they had seen fit so to do.

The remonstrants do not wish to stand in the way of other improvements, nor deny the power of the Legislature to license or construct them ; and will yield to any that shall arise, whether by vessels navigating the air or some yet to be discovered means of travelling upon lightning. But for the Legislature to establish parallel roads between the same termini, of the same nature, canal by canal, turnpike by turnpike, rail-road by rail-road, where no public necessity calls for greater accommodation of that description—but where the existing one is confessedly competent for all the needs of the people ; and where the tolls are within the bounds prescribed by the Legislature as just and reasonable ; merely for the purpose of enabling the parties to speculate upon each other, and the public to derive a supposed benefit from the competition ;—is, we respectfully submit, contrary to all principles of sound policy and enlightened justice—and, with great deference we say, is directly in violation of the Constitution of the State.

That Constitution vests the power of granting these charters only when a public exigency demands it. The Legislature does not possess the power except it be created by such exigency. And can an exigency be said to exist where the public is already fully accommodated, and at a rate of tolls far below that which the Legislature itself has expressly determined and declared that the public ought to pay?

What constitutes a public exigency for a rail-road anywhere? It must be to furnish either more *immediate*, or *safe*, or *speedy*, or *cheap transportation*, than at present exist between the proposed termini. If a proposed road will not make the communication so much more direct, safe, rapid or cheap than that existing, as to constitute an equivalent for the expense of its construction, no such exigency exists, and therefore the power to grant the charter does not exist.

Now in the case before the Committee, it is proved beyond question that the proposed road from Danvers will not afford *so frequent communication with Lynn and Boston, by nearly one half*, as that which the present road, with a spur to Danvers, will afford; and will not, therefore, constitute so immediate a connection. That it cannot be nearly so *safe*, because it will be of a single track only—whereas the existing road has two for two thirds of the way, and will shortly have them throughout. That it probably will not afford so *rapid and punctual transportation*: and certainly none more so than the present one supplies. That no *cheaper* rate of tolls is ventured to be promised. And that the present road, with a spur, can receive and accommodate *ten times the transportation* which the proposed road is computed to receive.

Where, then, is the exigency? If it be said, as it often is, that the competition will produce cheaper rates of fare on both roads, then I ask whether the Legislature have not, by the eighth section of the charter to these remonstrants, decided that, until the tolls exceed ten per cent. annually, no public exigency can exist for reducing them? And whether they have, as yet, amounted to much more than half that rate? And when the government has granted to individuals a charter avowedly for the purpose of procuring this public accommodation,—and induced them to invest over \$2,000,000 in a road for that end,—and the road answers all the purposes for

which the charter was granted,—and yields a less profit than was stipulated in the charter to be a reasonable return for the interest and risk of the investment,—can the same government interfere to grant another charter, for no other end but to reduce the value of the property so invested, by diminishing the income from it? This is the real question upon the facts before the Committee.

We respectfully submit that when the charter of the existing road was granted, and the road went into operation, the exigency which authorized a charter for a rail-road from Salem and Danvers to Boston ceased; and no power could be revested in the Legislature to grant another until a new exigency should arise; and until it does arise the existing charter of necessity confers an *exclusive right*—both because the Legislature can grant no other, and because the parties who invested their money under it did so in the faith that no other could be granted.

And this is the true foundation of *vested rights*, which it has of late become so fashionable to scoff at. I will not condescend to declaim upon this subject before this Committee, but I should like to propose a few plain questions to those who seem to think so lightly of them. 1. Can the Legislature take private property for a rail-road when no public exigency requires one? 2. If the public exigency did require one, and it has been already constructed, and affords all the accommodation anticipated; and at less rates of fare than that determined upon by the Legislature as reasonable; and can accommodate a much greater public need than now exists for that mode of transportation, does a public exigency exist for another? 3. If the State, instead of exercising its power to build such a road at the public expense, has transferred it to private individuals, in consideration of their undertaking to invest their private fortunes in constructing the road, with the right to receive all the income accruing from its use, until it amount to a given per centage; and they have proceeded to do so; and the road answers all the purposes intended, and does not produce the per centage stipulated; have not those individuals acquired all the exclusive right which the State possessed, of constructing such a road? 4. Can the State, under these circumstances, establish a new

road between the same termini, or substantially between them,—no new exigency having arisen? 5. If the State cannot do so, can it delegate the power to others to do so? 6. And does it not follow, that until the occurrence of such new exigency, the proprietors under the existing charter, have a *vested right to the exclusive use of this mode of transportation* between those termini, *so far as the State has power to create it?*

It is often said that no charter can vest in a corporation any right to the person of the traveller, or to the transportation of his property; that he is free to come and go, and carry his goods whenever and wherever he pleases. This is a mere man of straw set up to be knocked down; mere declamation for popular effect upon the unthinking. No one pretends to any such right. Persons may, doubtless, travel as they please, and carry their property as they please, and on private rail-roads if they choose; but if they elect to use the public roads, they must use those lawfully established by public authority, and upon the terms prescribed by the government which created them. *And if the government can create but one, they must use that one and no other.* And there is no hardship in this; they are not obliged to use it, they do so voluntarily or not at all. And if they do so, they pay no more than a fair equivalent. It is just like spinning cotton or wool; every one has a right to spin his own if he please, but if he chooses to do it in a particular manner, which belongs exclusively to an individual under a grant from the government by letters patent, he must do it upon the terms prescribed by him. He cannot set up machinery of the same kind merely because it is for his interest or pleasure to do so.

We have thus far considered the question upon the hypothesis that a road from Danvers, through Lynn to Boston, would be able to maintain itself, and endeavoured to satisfy the Committee, that, if such were the fact, still that no public exigency exists to authorize its establishment, while public policy and justice to the remonstrants alike forbid it. But so far from there being any proof that such a road could return a fair income for the investment, the evidence is conclusive that the enterprise, if undertaken, must result in great pecuniary loss. And of course, if this be so, no such exi-

gency exists as will warrant its establishment—for no rail-road can be said to be demanded by the public exigency which cannot pay interest upon the cost of construction.

The first and a very remarkable feature in the project to be noticed, is, that the petitioners make no pretence that their proposed road could be maintained without withdrawing its principal, if not almost entire nourishment, from the existing road; there is no suggestion that it could stand for a moment if depending exclusively on new custom, no part of which now pertains to that in operation. The mere *increase* of travel and transportation from Danvers and Lynn, independently of what now passes on the Eastern road, it is idle to pretend would authorize the establishment of such new road, even if the increase suggested were proved. The calculations are based upon an entire withdrawal, from the Eastern road, of all the present travel and transportation of Danvers, and nearly all that of Lynn, and a large portion of that of Salem. The project, therefore, has on its front the *recommendation* of an attempt to take away from another company, which has invested a vast amount of property in an existing road under the sanction of the Legislature, and conducted it in the most faithful and exemplary manner, and never yet realized but a trifle more than half of the income which the Legislature held out as an inducement, a very large portion and by far the most valuable portion of its custom. It is believed that no application was ever before made less entitled to favor, or less consistent with the principles of just regard for the rights and interests of others; since rail-roads came into existence.

Another circumstance worthy of note, is the entire looseness and uncertainty of all the testimony on the part of petitioners on the subjects of freight and passengers, and the expenses of conducting their road, and the elements of computation on which their estimates are founded. They have presented no statistical accounts taken from authentic sources save one, and that contradicts their last two estimates entirely; and no persons employed in the transportation of passengers or freight in any manner, or in the management of rail-roads, have been called to testify to facts or probabilities; but mere loose conjectures of men wholly unskilled in statis-

tics, and written estimates made by counsel, and changed three times during the hearing, and unsupported by any thing like proof, are all the materials placed before the Committee upon which this claim for the establishment of a new road is founded. Let us then examine these estimates and compare them with the proofs, to see how far they are sustained by evidence; and then compute the anticipated income at those estimates with the certain cost of the road, and expenses of running, and see the result.

The estimate of the cost of the road by Mr. Hayward's statement, from South Danvers to the junction, with furniture, &c.	\$220,000
Add spur to North Danvers, $3\frac{1}{2}$ miles,	70,000

	\$290,000

Interest at 6 per cent,	\$17,400
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The first estimate of receipts and expenditures, given by counsel, marked A, is from Salem,—

Exhibits 30,000 passengers from South Danvers.	
" 3,000 "	" North Danvers.
" 30,000 "	" Lynn.
" 6,000 "	" Saugus.
" 30,000 "	" Salem.
" 10,000 "	" adjoining towns.

Total, 109,000 annually.

Now, where is the proof that any such number of passengers will travel over the road. Mr. Daniels, page 17, estimates the number for Danvers at over fifty per day each way, and this includes those to North Danvers by way of South Danvers, 30,000; no statement, but a *mere opinion*, and so expressed. Mr. Allen, page 24, says he has not thought of the subject,—but calculates about one hundred daily,—it being his *mere conjecture*; and this is all the proof of the \$30,000 from South Danvers: the weakest testimony ever offered in a court of justice, in a \$20 suit. Out of their fifteen or

twenty witnesses, only one was found to give even an opinion, that he has any confidence in, and the other mere conjecture, with a careful reservation that it shall pass for nothing more.

It is not shewn what portion of this 30,000, if any, are not already accommodated by the existing road; and it is very difficult to believe, that the number from that town would be much greater, if the road went through it, than it is now; a large portion of the population being already about as near the depot at Salem, as many of its inhabitants, and nearer than the inhabitants of the north end of Boston, are to the Worcester depot, or those at the south end to the Lowell or the Eastern depots.

If there had been any disposition to look carefully into this matter, some approach to calculation might easily have been made; by statistics from the omnibus drivers, and among the inhabitants; but they probably would not have answered so good a purpose, as general opinion and conjecture. It is, however, worth while to contrast this estimate with those presented by the town of Danvers, or those who represented its statistics in 1836, when the charter of the existing road was granted. (Senate Doc., No. 77, 1836, p. 3.) Danvers had a population of 5000, this included the whole town, (S. & N.); number of passengers in stage coaches, 2,500, *not* including those who travelled in private carriages. Now, it is not proved, that Danvers has doubled within the period of nine years, nor is that at all probable. But, suppose it to be true, that would give 5000 travellers by public conveyances; and if we quadrupled that, we should still fall far below the present estimate of 30,000. Indeed, the absurdity of supposing, that a town of 7000 or 8000 inhabitants, men, women, and children, could give 30,000 passengers yearly, is too apparent for argument. The great mass never travel in that way at all, and very few, comparatively, do so often.

Next comes North Danvers—set down at 3,000. The only witness to North Danvers is Mr. Elias Putnam, who gives the number 9,340. Where these are to come from,—that small village containing much fewer inhabitants than South Danvers, is not shown, and surpasses imagination to conjecture. This population, I suppose, was included with

that of South Danvers in the estimate of 1836, and the whole together made but 5,000; and yet now they are to furnish over 39,000 rail-road passengers annually.

Next comes Lynn—set down at 30,000. All the testimony here is from Mr. Andrews Breed, whose hotel is to be re-established by the new road; and whose wish, in his estimate, seems fatter to the thought. He begins by saying that he thinks from one quarter to one half of the Lynn passengers would go by the new route—thus leaving a pretty broad margin for estimates; and finally says that he learned that the receipts at the hotel depot, on the present road, were \$6,000 last year, and he thinks that one fourth of it would go by the new road. If we grant all this, it gives only 15,000 passengers, being half the number in the estimate. But in looking at the map of Lynn, it will be perceived that the present road is far more convenient to the inhabitants of Lynn, and would take all the summer travel from Nahant and the sea-shore, the main depot being close at hand;—while the proof from the teamster is, that three fourths of the merchandise he takes to Boston are shipped on Commercial street and the adjoining wharves; so that the inhabitants of Lynn, who are most to be depended upon as frequent travellers, would also take the old route. The calculation of 5,000 from Lynn would probably far exceed the reality.

The next is Saugus—set down at 6,000. The witnesses to this point are Mr. Newhall, and one other person who stated that he agreed in his statements. Mr. Newhall's testimony is, that he consulted the thirty men who constitute, we suppose, the bone and muscle of Saugus, and found that they averaged ninety-three times a week—equal to 4,736 annually—most of which, at present, travel, as I infer from his statements, in single horse wagons; and certainly would continue to do so, if a dozen rail-roads went through their town, as all experience proves.

For this estimate, therefore, out of the promised 109,000, we have, one opinion and one conjecture for 30,000

One opinion for	3,000
One opinion for, say	15,000
Two opinions	4,376
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the remainder being wholly unproved—there being no testimony, that I perceive, for the 30,000 from Salem, the 10,000 from adjoining towns, the other 15,000 from Lynn, and 1,700 from Saugus. The proof, therefore, if it can by any imagination be called such, falls short more than one half of the first estimate. And if suitable deductions be made for the exaggeration which is natural on such occasions, and without the slightest impeachment of integrity, we may safely take off half of that thus supported, and reduce the reality to one fourth of the estimate. What can be more absurd than that Saugus, with 1,200 inhabitants, should furnish 4,000 passengers annually?

The case had gone on with this estimate as the basis of calculation, until nearly all the evidence of the remonstrants was in, when, on the afternoon of the 4th instant, we were greeted with a new one,—marked B,*—the counsel seeming to have endless fertility of genius, in this department at least. And if he could make passengers as readily as he can estimates, he would soon cover the land with rail-roads not an inch apart, and find more passengers than they could carry. This new, or second estimate, marked B, gives entire new color to the matter, and shews how modest the original one was, in reference to the magnitude of his native town; or else how impossible it is to keep pace with the rapidity of its increase in population. When the case was opened, South Danvers was to give 30,000 passengers, and North Danvers 3,000—total 33,000. But now in a few days Danvers and towns adjoining mount up to 60,000. A very rapid growth certainly, and quite exceeding even the advance from 2,500 to 30,000 in nine years. Nor must we understand that the towns, *other towns* adjoining, include any not embraced in the former statement, for in this last estimate he has about 14,000 passengers from Salem and *elsewhere*.

Now it is natural to ask how this change in the estimates came about?—there being none in *the facts* proved;—and it not having been shewn that Danvers was so preëminent in replenishing the earth, one might be at a loss to account for this sudden and vast addition to its population.

* See Appendix.

But the reason is very obvious. In the first statement were set down 30,000 passengers from Salem, and 10,000 from adjoining towns. But the counsel had withdrawn Salem from the line, and therefore he must give up the 30,000 passengers expressly named as from that city, though he could retain that portion of Salem passengers, included under the convenient phrase, adjoining towns. But although he had to *give up the passengers, he couldn't afford to give up the fares*; so he takes 27,000 that he formerly gave to Salem, and claps them on to Danvers; and apprehending that a little additional increase would be convenient; and thinking that Danvers had done her share in bringing forth 27,000 travellers in a few days, he divides the burthen by putting 4,000 more on to little Saugus, who thus nearly doubles her children while we are debating the matter. And not content with that, the counsel considering it not just to give all the credit of this wonderful fecundity to those named, puts about 4,000 more to the account of the adjoining towns. What a wonderful people this town of Danvers with its vicinity exhibits! Why, sir, at this rate, she will not only need another rail-road, but one to another planet to carry off the surplus population.

We certainly had hoped that our statistical miseries were at an end with this new development, but just at the close of the case, in comes another, the only difference, however, in point of numbers, being that the gentleman takes off the 4,000 he had before given to the adjoining towns, though, as we shall presently see, he has a convenient way of his own of making up the loss, by *adding in fares*, what he *deducts in passengers*.

Nothing can be more fatal to any rational belief in these statements, than their utter inconsistency. We declare them one, and all, to be entirely unsupported by any proof, and in conflict with, and destructive of each other. So much for the numbers of passengers.

The computation of fares is equally erroneous. In the two first estimates the rates of fare are at 30 cts. from Salem, and 25 cts. from Lynn; being predicated upon the rate of 40 cts. through from Salem, and 30 cts. through from Lynn; these being the prices that the present road has established

to commence on the first of April, and as low as even the petitioners could venture to suggest; and the calculation being that the Boston and Maine Rail-road Company will charge only 10 cts. each. But the evidence is clear and undisputed that the Boston and Maine Rail-road Company will not charge less than $12\frac{1}{2}$, and may charge 15 cts. And when it is remembered that the proposed road is to enter upon that of the Boston and Maine Company, four miles from Boston, and to use the most expensive and valuable portion of it,—and their depots purchased at immense cost,—it is apparent that 15 cents will be a very reasonable charge. There would therefore be a deduction of fare, $2\frac{1}{2}$ to 5 cents at the least, to be made for every passenger included in these computations.

The last estimate, however, varies from both the others, and is predicated upon allowing the Boston and Maine Rail-road Company, 8 cents only for each passenger; upon what pretence it is impossible to imagine, unless the gentleman thinks that his estimates are not only to control evidence instead of constituting its results,—but are to control the proceedings of the Boston and Maine Rail-road Company, in reference to their rates of fare.

So as to the statistics concerning freight—they are equally unsustained by any satisfactory evidence, inconsistent with each other, and refuted by all known experience. The first estimate set down

South Danvers,	-	-	10,000 tons.
North Danvers,	-	-	3,000
Lynn,	-	-	10,000
Saugus,	-	-	2,000
Salem,	-	-	5,000
			<hr/>
			30,000

The evidence on the subject is singularly loose and unsatisfactory;—no testimony from the persons employed in transportation adduced by petitioners—no effort to obtain satisfactory information except by Mr. Allen. All the rest mere general statement, entitled to very little weight, however honestly given. Mr. Daniels estimates the amount carried now by wagons at 14,000 or 15,000 tons. Whether he in-

cluded the onions, hay and apples, which he mentioned, does not appear. Mr. Upton, who expects his land to be taken for the depot, seems to estimate it at even more, by computing the number of teams and what they *ought to have*. The only estimate approaching to certainty or any degree of rational confidence, and I am happy to say that there is one to be trusted, is that made by Mr. Allen, who seems to have gone to every individual in the village who ever had any thing carried between Boston and S. Danvers. His written schedule is in the case marked D, and seems to embrace the whole,—from the provision dealer, who has 4 tons pass the road per year, to the Danvers Iron works, who have 1700 annually; and includes every thing, not only hides, shoes and merchandise of all sorts, but onions, apples and squashes; being the whole business of 98 persons and firms, and 1792 tons for *several individuals*; which I suppose includes all the rest of the inhabitants, who ever have any thing transported to or from this city. So that we may safely consider this the extreme of the tonnage of Danvers, including the great baggage wagon and the little one horse Dearborn; and if we take the whole, is probably to come over the proposed road, it does not quite sustain this first estimate, though it does nearly so.

As to North Danvers, set down at 3000 tons, Mr. Elias Putnam estimates 4000 tons for North Danvers, *Georgetown* and *Topsfield*, including the *iron factory* at New Mills, as I understood him. Now Georgetown is only 6 miles from Haverhill, through which the Boston and Maine rail-road now passes, and is 12 miles from the terminus of the proposed road; and no reason has been found or stated why the inhabitants of Georgetown should elect to carry their goods 12 miles to get to a rail-road, when they can get to the same one substantially 6 miles nearer; and the witness admitted that the people of North Danvers do not now generally send their shoes by the rail-road, excepting in bad travelling.

As to Saugus, Mr. Newhall makes the whole about — tons per year. He expresses no opinion, however, of the quantity that would come by rail-road, and admits ignorance whether other towns, similarly situated, ever use rail-roads for transporting freight.

Lynn set down at 10,000 tons;—no estimate by any witness;—mere general statement of Mr. Breed, that merchandise would go by the new road;—no proof or reason given. The only witness who gives an opinion is Mr. Treadwell, (p. 40) who thinks it might be 4000 tons, less than half the estimate.

Salem set down at 5000 tons—Salem and Danvers at 5000. No proof of either.

Now, the whole weight of testimony is opposed to the belief, that any considerable portion of this freight would go over the road. As to South Danvers, the whole amount, as estimated by Mr. Allen, is short of \$10,000; and it is obvious, that very large portions of that, if not nearly the whole, would be carried by wagons, as it now is; it is much more convenient, and in good travelling certainly as cheap. The loading and unloading at each end, constitute the chief trouble and expense; while the convenience of taking up the different parcels from their respective consignors, at one end, and the delivery of them to their several consignees, at the other; more than counterbalances any degree of cheapness in the mere transportation by rail-road between depot and depot.

No instance is shewn, where the general business of any town, within that distance, is done on rail-roads. Between Salem and Boston only about 6,000 tons annually are carried upon the rail-road, including all that comes from Danvers and North Danvers, and the adjoining towns. How preposterous, then, to think that South Danvers alone can send 10,000. Mr. Lee testifies, that there is on the Providence road no transient freight from Canton to speak of, but only that of two large manufactories; and Canton is about the same distance from Boston as Danvers. Mr. Storrow represents the amount of freight on the Lowell road, from places short of Lowell, very small; that he expects to get about 500 from Woburn, where shoe and tanning business is carried on extensively, and to which place a branch has been constructed; and that is all they anticipate.

As to freight from Lynn and Saugus, 12,000 tons, it must be stricken out altogether. The proof is clear, from testimony of teamsters, and actual experiment of the present road, that no rail-road can compete with teams by carrying at 50 cents per

ton. The experiment has been fully tried, and utterly failed.

It is proved, that three different contracts have been made for carrying freight on this road. One for \$1 per ton, one for 75 cents, and one for 60 cents, with privilege of free passage for persons to attend and deliver it; but that the wagons could carry it more cheaply than at those rates. And one of the principal teamsters has testified, that the road cannot compete with the wagons at more than 37 cents per ton; while it was also shewn, that the corporation had offered to furnish a six ton car daily to and from Boston, for \$2,500 a year, which was refused. And no conceivable advantage can be stated which the new road would have over the present one. The only one Mr. Breed could suggest, was, that freight would be less handled. But he plainly shewed his ignorance, as it is not more frequently handled at this depot than at any other.

And the experience of this road is in exact accordance with that of the Boston and Providence road to Dedham, being two miles farther. There it is proved that the road cannot compete with wagons, and an arrangement is now made with the teamsters to carry freight at a price, that yields no profit to the road. They receive only 25 cents per ton, and only get 4,000 tons at that rate, = \$1,000 per year. So, by the experience of the Lowell road, which receives nothing worth naming from freight within fifteen miles of Boston.

It is proved, that the freight is now carried and delivered, with as much punctuality on this as upon any road in the State,—and as cheaply. That there is precisely the same amount of handling, or loading and unloading, as at every other depot and no more; that the only difference between this and any other depot, is, the crossing the ferry with the goods upon the trucks; but this expense is borne by the company, and does not fall upon the owner or consignee. So that no reason exists why merchandise should not be transported over this road as well as over any other. The truth is, that no rail-road can ever compete with wagons, within fifteen miles of a city, in ordinarily good travelling,—and it is proved, that, although the transportation by this road is very cheap,—baggage wagons still run from Salem,—and

they doubtless would still run from Danvers, and carry nearly all their goods, were the new road made.

Taking, therefore, the evidence in the case, and it is manifest that the estimate is not to be in any essential degree relied upon. That the estimate from South Danvers of 10,000 tons is altogether too high; and that probably very little, if any more, would come by the proposed road than now come by the present one. No good reason can be shewn why it would—and all analogy is against the belief. But if a considerable portion should go by the new road, and the whole amount calculated upon from North Danvers were to be realized, the amount could not exceed 7,000 or 8,000 tons. We strike out Lynn and Saugus altogether, the proof being perfect that no freight could ever be profitably taken from either. And not a particle of proof has been furnished that any could be obtained from Salem—and it is absurd to suppose any. The 30,000 tons of freight, therefore, dwindle down to about 7,000 or 8,000, and that would probably be an over-estimate; the nature of the business done between Danvers and Boston rendering baggage wagons a particularly convenient mode of transportation.

But extravagant and unfounded as is this computation of tonnage, the *rate per ton* is even more so. In the first estimate, A, the net profit to the road of this freight is put at \$1 50 per ton, from Danvers and Salem, without deducting the expenses of loading and unloading, 25 cents per ton; or the amount payable to the Boston and Maine Rail-road Company, being another 25 cents per ton; which, in all, amounts to 50 cents, leaving only \$1—and from that must be taken 20 cents more to reduce it to the rate per ton at which the present road now proposes to transport merchandise from Salem,—making a deduction of 70 cents, or nearly one half of their estimated receipts. And the like deduction is to be made for the Lynn merchandise, set down at \$1 per ton, reducing it to 50 cents per ton, or one half the estimate.

But here, too, as before remarked, after the evidence was nearly all in, we were favored with another estimate as remarkable in reference to the freight as it was in regard to the increase of passengers—marked B.* The freight from North

* See Appendix.

and South Danvers, in the first estimate, were 13,000 tons; but by the second the freight of Danvers and towns adjoining is trumped up to 30,000 tons; while Lynn and Saugus, which before gave 12,000, are now magnified to 15,000, by a dash of the pen. This change was also made necessary for the reason that Salem was stricken off, and the need that occurred of a substitute; and so Danvers and Saugus are made not only to nearly double their population in a few days, but to bring forth full grown men, who are instantly set up in trade and double their business also. This beats Jupiter and Minerva "all hollow." His head could produce one woman only in simple armor, while 30,000 men jump from the head of the counsel in this case, all furnished with tan-pits and hides, lap stones and hammers, and four horsed baggage wagons, all in full operation. But they want one essential attribute of the true yankee; as in order to make out his profits the gentleman makes them willing to pay \$1 per ton for transportation, when they could get it done for 80 cents; and this is certainly fatal to any faith in any part of his estimate.

And then comes the third, and final estimate, marked C, unless the counsel shall hand in another before I sit down;* in which, while he sticks to the number of tons, he raises the price, putting his freight at \$1 10 per ton instead of \$1, being 30 cents more than the present road charges. And here, for the first time, he allows any thing to the Boston and Maine road, for the use of their roads, depot and motive power, which he puts down at 20 cents, instead of 25, which the evidence shows will be the least that can be charged.

It is hardly conceivable that the absurdity of these estimates can need further exposure, yet a few simple comparisons may elucidate it still more glaringly. The amount of freight in these two last estimates, 45,000 tons, is equal to one third of that brought through upon the great Western road,—approaches one third of all on the Lowell, Boston and Maine, Nashua and Lowell, and Concord Rail-roads put together. The receipts are computed at \$45,750—being more than one half of the receipts of the Boston and Providence

* Which was done.

road and all its branches ; and is about three fourths of all between Lowell and Boston. It exceeds three times the whole amount received by the New Bedford and Taunton roads. There can, therefore, be no reasonable reliance placed upon these estimates, either in regard to numbers or quantities.

But assuming that these estimates of the amount of business that would be done upon the road were correct, even then it is manifest that at the rates of fare that must be taken, and with the expenses that must be incurred, the construction of the road would result in disastrous and ruinous loss. It is remarkable that petitioners have offered no proof upon either of these subjects ; not a witness to shew what rate of fare is usual or practicable, or what the expenses of running and maintaining the road are. All is mere suggestion,—mere paper estimate, and varied to suit the occasion. The remonstrants, however, have introduced the best possible evidence upon these subjects, and placed both beyond reasonable doubt.

And first as to expenses. The petitioners at first estimated these at \$30,000 and now place them at \$37,500. We have shewn that the expenses at the lowest possible estimates, cannot be less than \$50,000 annually, for the same accommodation now afforded, or \$37,500 if running four passenger and one freight trains daily, being three less than are now run on the existing road, computing the expense at 46 cents per mile,—being less by 22 cents than the average of eleven rail-roads now in operation, which is 68 cents per mile. (See Chase's statement No. 1, Appendix.) And the estimates so carefully and skilfully made by Mr. Chase, an experienced superintendent, and which there has been no attempt to disprove, show conclusively that allowing all that petitioners claimed in the first estimates, for passengers and freight, and deducting the necessary expenses computed at the lowest rates, and the amounts to be paid to the Boston and Maine Rail-road Company, and there must be a great loss whether the new corporation should run eight trains or five only. That in running eight trains the expenses would exceed the income by about \$16,500 ; and in running five, by about \$5,000, to be added to the loss of the whole interest upon

the capital. (Chase's statement No. 2.) And that taking the absurdly extravagant estimates of freight and passengers put in at the close of the case, there would be still a loss in running the eight trains daily of about \$5,500, and a surplus only of about \$5,000, in running five trains, being less than 2 per cent. on the capital invested. (Chase's statement No. 3.)

While the computations of Mr. Neal, as able and experienced in these matters as any man in the country, shew still more unfavorable results. They being based upon the original statement of the business, and showing a dead loss of \$32,825, assuming that the whole amount of business should be realized, a loss of \$50,850, allowing all that could be possibly anticipated,—and a still greater one if the competition should produce reduction in rates of fares. (Paper E.)

It will be recollected that in the estimates offered by the remonstrants, they have been supported by the testimony, not only of Mr. Neal, the president of their corporation, and Mr. Chase the former superintendent, but by the superintendents of three other roads, Mr. Storrow, Mr. Lee and Mr. Parker, and contradicted by no one.

But the counsel has adverted to the expenses of the Dedham Branch Rail-road, which Mr. Lee stated is run for \$6000 annually as a branch, and might be run as an independent road for \$12,000, as showing that the proposed road can be managed more cheaply. But in the first place, it runs only half the number of passenger trains proposed to be run on the petitioners' road. In the second place, nothing is charged for loading or unloading of merchandise, which is 25 cents per ton, and which on the proposed road, at the estimates of 45,000 tons, would itself amount to \$11,250. And in the third, this estimate includes nothing for repairs of road from the junction to Boston.

Thus the loading and unloading would be	\$11,250
The additional passenger trains, say 44 miles at 32 cts.	4,407
Repairs of track, at \$400 per mile, which is less than the average,	3,200
	<hr/>
	18,857
To be added to the	12,000
	<hr/>
Making	\$30,857
Instead of \$12,000.	

So he advertises to the Taunton and New Bedford, which he says is run for	\$24,180
But loading and unloading merchandise is not in- cluded, say on 45,000 tons,	11,250
And the two additional passenger trains, being for 80 miles a day at 46 cents,	11,518
	<hr/>
Making the expense	\$46,868

The returns of the Fitchburg road present no criterion,—that being an unfinished road, not including the general expenses of 12 cents per mile run, which by Mr. Chase's estimates are shewn to be the average, and $12\frac{9}{10}$ cents for repairs of road, adding which would make the running expenses of that road among the highest on the list.

We submit, therefore, that the petitioners have not only failed entirely in their attempts to prove that they could maintain their road, if built,—but that the proof is clear and conclusive, that it would result in ruinous loss. But there is proof, that the computations of the petitioners are essentially erroneous as to the cost of constructing their road, and the number of persons they must employ. Their estimates were based upon running directly over the Boston and Maine road to Boston, with their own engines. But it is now shewn that their locomotives must stop at the junction, and they must have a depot, and engine house, and apparatus there, which will add greatly to the cost of their road, and of its maintenance, and is so much more to be added to the ruinous result of the proposed enterprise. While to that, again, must be added the still further expenses always accruing for acci-

dents,—damages to passengers and freight, fire risks of depots, cars, engines, and buildings on the line, and the other incidental charges, which, though not susceptible of enumeration, are sure to occur. And to this, again, the extra expenses for irregularities, in quantities of freight, to be transported at different times, greatly increasing the cost of transportation. All the calculations on that subject, now put in, being upon the supposition of their going equally both ways, and at all times, which is obviously impossible.

Some allusion was made in the early part of the case to the agreement entered into between the Boston and Maine Rail-road Company and the remonstrants, concerning the rates of fare on their two roads. It has been proved, that this was entered into, because of their union at South Berwick, to avoid the evils of parallel and competing roads; and, upon inspection, it will be found to be in good faith to the public and just to each other. It is not perceived what use is intended to be made of it. But if it be to shew, that the remonstrants would be prevented thereby from diminishing their fares between Salem and Boston, so as to compete or interfere with the proposed road; then, we say, first, that, as the other fares on the existing road, below Salem, are higher than that agreement requires, the remonstrants may still make a deduction on those between Salem and Boston, if desirable.

2dly. It is in the power of the commissioners appointed under the agreement, to alter the rates of fare, if an exigency should require it; and the interference of the proposed roads, should its proprietors attempt to establish lower rates of fare, would be considered one calling for such alteration.

3dly. The connection of the Boston and Maine Rail-road with that of the petitioners, by any agreement between the corporations, enabling the latter to reduce the fares, would be a fraud on the Eastern Rail-road Company, in violation of the contract, which would discharge the remonstrants from their obligations under it.

4thly. If the State should compel a junction between the proposed road and the Boston and Maine road, upon terms that should enable the latter to withdraw custom from the road of the remonstrants, that would operate as a virtual dissolution of the contract, being an act done by the supreme

authority, tending to avoid the intent of the contract on both sides, and to prevent the Eastern road from fulfilling it, on their part.

Upon the whole evidence, therefore, we respectfully submit that the prayer of the petition ought not to be granted. That the charter desired would be against public policy, as tending to establish a system of parallel rail-roads, alike ruinous to those already in being, and calculated to prevent the construction of others hereafter. That it is called for by no public exigency—it being manifest that equal or greater accommodation could be afforded to the petitioners by a spur from the present road. That, if successful, it would conflict directly with the interests of the present road, by withdrawing a large portion of its custom, and that principally relied upon at the time of its construction. That it would be a violation of the contract between the State and the remonstrants, contained in or expressed by the 8th section of their charter, and of the good faith of the State to them as the builders and proprietors of a long line of road, which was undertaken chiefly in reliance upon the custom which the petitioners, if successful, would withdraw. And, finally, that there is no reason to believe that the proposed road, if built, could ever defray the expenses of its management, and much less yield any income upon the capital invested in its construction and apparatus; but, on the contrary, the evidence shews that it would result in disastrous loss to the projectors.

One other topic* seems to demand at least a passing notice,—the plea, so often urged on these occasions, of the advantages of competition. Competition, we are told, is the secret and soul of all enterprise and progress; that wherever it exists we behold the greatest advancement in economy, safety and comfort; that monopoly begets annoyance, cupidity and disregard of public safety and convenience; in short, that the history of competition is but the history of improvement, and that we have only to establish competition, and we at once obtain perfection,—or, at least, are travelling with railroad velocity towards it.

* A portion of these remarks were omitted in the delivery of the Argument, from want of time.

Now, this mode of argument is one of very easy adoption, and does exceedingly well when all others fail; because while it contains one general element of truth to stand upon as a pedestal, it is so indefinite, and so independent of time and circumstance, and so entirely irrespective of evidence,—in short, so universally applicable, that it may be applied to almost any one subject, and in almost any one case as well as to any other.

The same may be said of fire,—the essential element in the progress of all art and science and human comfort, from the axe to the surgical knife, from the pane of glass to the telescope, from the wheelbarrow to the locomotive engine. Its history may emphatically be said to be the history of civilization. But shall we therefore scatter it far and wide, and spread its devouring flames over the whole earth. If the history of fire be on one side the history of civilization, on the other it is the history of destructive conflagration on land and sea, of burning cities and blazing habitations, of widely spread and destructive losses of property and life.

And so, if the history of competition be on one hand the history of improvement, it is upon the other the sad record of restless aspiration, of broken friendships, of envious discontents, of blasted public and private faith, of unblushing frauds, of gambling speculations and ruined hopes. Competition is indeed a great element in social life, that in the present state of the human heart and mind seems essential to advancement, and I am willing to concede all that its eloquent advocates can urge for its importance and influence. I will allow that it is the fire of social enterprise, and as essential to it as that element to the existence and progress of civilization. Though all must admit that as a motive it is base, compared with those springing from a sense of duty and justice. But I would have it as I would fire—under control, and kept within its due limits, and applied to its proper uses. I would remember the old adage, applied to fire, that it is a good servant but a bad master. I would use it as a means of attempting something else, not regard it as an end to be itself attained.

And here let it be observed that this Committee, or rather the Legislature whom it represents, holds this mighty power

as applied to this case and this subject, in its grasp, to be used, guided and applied at its sole will. The influence of competition, as applied to rail-roads, is wholly within the control of the Legislature. They can create, modify, or destroy it at pleasure; and with all humility and deference I would suggest, that no occasion ever has existed, or probably ever will again exist, when a more solemn responsibility has rested, or will rest, upon the Legislature, in their exercise of this power.

The spirit of *competition* and of *speculation* are inseparably connected in all these enterprises. The anticipated profit of investments in the stocks,—of the advance of the value of real estate in villages and towns or local sections of them,—the imagined mines of wealth supposed to be in some wharf lot, or waste territory, that may be made a terminus or a depot,—the fancied increase of trade, and profits of trade, that are to accrue from the new facilities for transportation, and the influx of travellers! These, and countless other imaginations, fill the minds of the ardent and credulous with exaggerated hopes, and furnish ample means to the crafty and designing to multiply dupes, while they excite a desire and zeal for speculation and competition, which if permitted to rage uncontrolled, threaten to sweep again like a blasting pestilence over our land. This devastating mania has already exhausted the wilderness of the East and the prairies of the West, and buried there many fair fortunes and the comforts and hopes of many happy homes; and has sent, and is sending, many of grey hairs in sorrow to the grave, on whose descent there the sunshine of competency and contentment might otherwise have shone. Nor is this all, nor the worst; it has laid prostrate there the honor and good faith of thousands and tens of thousands of its victims. The same mania has also exhausted the field of fancy stock jobbing, until credulity and gullibility can no longer be brought to lay their wealth or their hard earnings at the feet of desperate gamblers and incorporated swindlers. But if the signs of the times are to be understood, this love of speculation has neither been gorged nor destroyed, but is now taking a new direction, and is lighting upon rail-road stocks as its next subject. And it may be well for those in power to pause and

reflect, whether the grant of these numerous petitions may not tend to encourage and promote this spirit; and not only so, but likewise at the expense and to the ruin of those who have invested their property upon the supposed faith of the Legislature.

In reference to the petition of Mr. Valentine and others, the remonstrants object to any connection of the proposed road of the petitioners with theirs—because they allege that such connection, if their road should be successful, would be a direct violation of the rights of the remonstrants, by cutting off a most important portion of their custom at their principal terminus; and be, to that extent, to all intents and purposes, a parallel road. That there can be no good reason for granting to others a new road, with liberty to connect with that of the remonstrants, merely for the purpose of affording an imaginary advantage at another depot. That upon the hypothesis of these petitioners, there would be the same reason for granting new roads from different parts of the city, to intersect the Lowell, Worcester and Providence roads. That such connection would expose the remonstrants to great delays in receiving and discharging passengers or cars at the junction,—and to great expenses and loss of motive power, in the necessity they would constantly be under of being provided with sufficient motive power for any emergency, when less would oftentimes or generally be sufficient;—and to other great annoyances, delays and expenses, which always attend such connections. And deeming it plain that no public exigency exists for such a road, they decline entering further upon the subject.

NOTE BY THE PRINTERS.

In printing the argument of Mr. Loring, from his notes as prepared for delivery and not for publication, and in the hurry with which the work was forced through the press, the following errors have escaped correction, which the reader is requested to notice.

Page 9, line 8 from the bottom, read "or" for and."

" 9, " 7 from the bottom, transpose the words "thrift" and "honesty."

" 10, " 22, read "number," for "numbers."

" 19, " 3, for "the investment," read "this movement."

" 25, " 4 from the bottom, read "draws," for "days."

" 41, " 4, for "misuse of the," read "misuse of them for."

" 55, " 11, for "\$9,500," read "\$500."

" 57, " 1, read "was," for "were."

" 60, for "\$46,868," read "\$46,948."

A P P E N D I X .

APPENDIX.

Mr. Neal's estimate of expenses of running the road.—E.

Current expenses of a road $17\frac{1}{2}$ miles long, with a spur (requiring a separate engine and train), of $3\frac{1}{2}$ miles—total 21 miles, of which 4 miles is kept in order by another company.

Suppose it to give the same accommodation that the present Eastern Rail-road now does—7 passenger and 1 merchandize trains per day, it must run $21 \times 16 \times 313 = 105,768$ miles per annum. On the most economical establishment possible, and without having a man and engine or a car to spare, there will be required,

1 Superintendent, per annum,	.	.	.	.	\$1,000 00
1 Treasurer,	.	.	.	.	800 00
1 Clerk,	.	.	.	.	500 00
3 Depot and Ticket Masters, at \$30, per month, each,	.	.	.	.	1,080 00
2 Switch men,	.	.	.	.	720 00
3 Brakemen,	.	.	.	.	1,080 00
(All of which will be required with 5 or 8 trains.)					
4 Engine men at \$60 per month,	.	.	.	.	2,880 00
4 Fireman " 30 "	.	.	.	.	1,440 00
4 Conductors " 40 "	.	.	.	.	1,920 00
3 Baggage Masters at \$35 "	.	.	.	.	1,260 00
					<hr/>
					\$12,680 00
					<hr/>

Average expense of the following items on the Eastern Rail-Road for the past six months, viz:

Fuel for locomotives, per mile,	.	.	cts.	9.289-1000
Maintainance of way,	.	.	.	11.386
Repairs of cars,	.	.	.	4.269
Oil for cars,	.	.	.	.297
Repairs of engines,	.	.	.	2,954
Oil, tallow, and packing for do.	.	.	.	.768
				<hr/>
				28.963-1000
Station expenses, (exclusive of wages,) " "	.	.	1.769	
Office establishment, " " "	.	.	1.961	
				<hr/>
				32.693-1000

Say 32 2-3 cents,—105,168 miles	\$34,354 88
Less, 4 miles, $\times 16 \times 313 = 19,968$ on which for maintenance of way, at 11.386-1000 cts. pr mile, is	2,273 54
	<hr/>
	\$32,081 34

Allow 5 engines to cost,	32,400 00
“ 7 passenger cars,	12,600 00
“ 35 freight “	21,000 00
	<hr/>
	66,000 00
Annual deterioration and renewal, 10 per ct. ,	6,600 00
Renewal of track,	1,700 00
	<hr/>
	40,381 34
Estimate of wages brought forward,	12,680 00
	<hr/>
Gross amount,	\$53,061 34

If 6 trains or less be run, it is possible that there might be dispensed with, 1 engineman, 1 conductor, 1 fireman, and 1 baggage master.

Aggregate of whose wages is,	\$1,980 00
And, (supposing the expenses per mile to be the same on the less as on the greater) deduct number of miles run by 2 trains, $21 \times 4 \times 313 = 26,292 \times 32 2-3 = 8,588 72$	
And wear and tare of 1 engine and track,	800 00
	<hr/>
	11,368 72
Expense of 6 trains,	\$41,892 62
But, if only 4 passenger and 1 merchandise trains, deduct $21 \times 2 \times 313 = 13,146 \times 32 2-3 = 4,294 36$	
Annual cost of operating the road, 5 trains,	\$37,598 26
	<hr/>

The foregoing statement was submitted to WILLIAM PARKER, Esq., Superintendent of the Worcester Rail-Road, CHARLES STORROW, Esq., Superintendent of the Lowell Rail-Road, and WILLIAM R. LEE, Esq., Superintendent of the Providence Rail-Road.

Mr. Parker testified: "My own opinion is, that, should no more than 5 trains be run each way, the actual expense, if fairly computed, would reach \$50,000 at least."

Mr. Storrow testified: "I have no hesitation in saying, that the aggregate \$53,061 34 is decidedly a low estimate, and that if a company could contract to have the service performed, and the depreciation of the cars and engines and road made good by paying that sum, it would be a very advantageous bargain for them."

Mr. Lee testified: "Generally the estimate is *low*, and *less* than the *experience* of any Road terminating in Boston, or indeed located in the Commonwealth."

Mr. Chase's Estimate, No. 1.

Expenses of operating a Rail-road 19½ miles long, calculating on 7 passenger, and 1 freight trains each way, daily,—

313 days × 16=5,008 trips of 19½ miles each=97,656 miles;

of these, 626 trips } run for freight, and 4,382 trips } for passengers.
12,207 miles } 85,449 miles }

Average cost per mile of running trains on 11 Massachusetts Rail-roads, in 1844, 68 68-100 cents; highest, 108 59-100, Nashua and Lowell; lowest, 44 25-100, Boston and Maine.

97,656 miles, run by trains at 46 cents,	\$44,921 56
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Depreciation,	5,520 00
-------------------------	----------

Or \$2,587 12 per mile of road=\$50,441 56

Or, calculated by No. of passengers and tons of freight, as follows:

PASSENGERS.

30,000 S. Danvers passengers carried 16 miles,	480,000
12,000 N. Danvers " 19½ "	234,000
30,000 Lynn " 10 "	300,000
10,000 Saugus " 8 "	80,000
10,000 other towns " 15 "	150,000
<hr/>	
92,000	1,244,000
<hr/>	

Equal to carrying 1,244,000 passengers 1 mile.

By running passenger trains 85,449 miles, which is equal to carrying 14 56-100 passengers over the whole road each trip; 14 56-100 passengers, at 3 cents each, per mile, is 42½ cents per mile for the train; and 1,244,000 passengers carried one mile, at 3 cents, is \$37,320 00

FREIGHT.

10,000 Tons S. Danvers, carried 16 miles, 160,000 tons 1 mile.	
7,000 " N. Danvers " 19½ " 136,000 " 1 "	
10,000 " Lynn, " 10 " 100,000 " 1 "	
2,000 " Saugus, " 8 " 16,000 " 1 "	
<hr/>	
29,000	412,500

Equal to carrying 412,500 tons 1 mile, or 21,654 tons through.

By running trains 12,207 miles, which is equal to carrying 33 8-10 tons over the whole road each trip; and 33 8-10 tons at 1½ cents per mile, is 50 7-10 per mile for the train.

412,500 tons carried 1 mile, at 1½ cents, is	6,187 50
Depreciation on 4 Engines,	24,000
4 Passenger Cars,	7,200
40 Freight Cars,	24,000
<hr/>	
55,200 at 10 per cent.	5,520 00
<hr/>	
\$49,027 50	
<hr/>	

NOTE.—29,000 tons carried in 626 trips, obliges arrangements to be made for at least 60 or 70 tons in some trips—it is actually 46½ tons each trip, carried for larger or shorter distance, and would probably vary from 30 to 70 tons to a trip. (Freight on Western Rail-road in 1844=43¾ tons through each train.) 71,581 tons through.

Same Road, calculating on 4 Passenger and 1 Freight Train each way, daily.

EXPENSES PERMANENT.

Maintenance of way, 11 386-1000 cents on 61,035 miles,	\$6,949 44
4 Depot Masters, at \$30 per month,	1,440 00
2 Switch-men, at \$30 " "	720 00
4 Laborers, at \$25 " "	1,200 00
Superintendent, Treasurer, Clerk, office expenses, printing, advertising, &c.	3,000 00
<hr/>	
\$13,309 44	

Which sum divided by 61,035 miles, is 21.80-100 cts. per mile.

Deduct permanent expenses from \$44,921 56, amount of expenses when 8 trains are run, at 46 cents per mile, and there remains \$31,612 12 for expenses depending on trains, which, on 97,656 miles is 32 37-100 cents per mile.

Cost per mile of permanent expenses when 5 trains are run, 21 80-100.
 Cost of train expenses per mile, 32 37-100.

Making cost per mile of running 5 trains per day, . . . 54 17-100.

313 days \times 10 trips of $19\frac{1}{2}$ miles each, is 61,035 miles;

of these, 626 trips } run for freight, and 2,504 trips } for passengers.
 12,207 miles 48,828 miles

61,035 miles, run by trains at 54 17-100, is \$33,062 66

Depreciation of engines and cars, 4,920 00

Or \$1,947 82 per mile of road = \$37,982 66

Or, calculating by amount of passengers and freight:

PASSENGERS, as before, equal to carrying 1,244,000, one mile; by running trains 48,828 miles, equal to 25 48-100 passengers over the whole road each trip. 25 48-100 passengers, at 2 1-8 cents per mile, is 54 14-100 cents per mile for the train; and 1,244,000 passengers 1 mile, at 2 $\frac{1}{8}$ cents, is \$26,435 00

Freight, as before, 6,187 50

\$32,622 50

3 Engines, 18,000

4 Passenger Cars, 7,200

40 Freight Cars, 24,000

\$49,200 depreciation 10 per cent. 4,920 00

\$37,542 50

Mr. Chase's Estimate—No. 4.

Estimate of Operating a Rail-road 17½ miles long, with a Spur 3½ miles.

7 passenger and 1 freight trains, each way, is,	105,168 miles.
At 46 cents,	\$ 48,377 28
Add depreciation on 4 engines,	\$ 24,000
6 passenger cars,	10,800
40 freight cars,	24,000
	—————
	\$ 58,800 at 10 pr ct. 5,880 00
	—————
	\$ 54,257 28
	—————

\$ 2583 70 running expense per mile of length of road.

4 passenger and 1 freight trains, each way, is 65,730 miles, at 54 17-100 cts.	\$ 35,605 94
Add depreciation on 3 engines, at \$ 6000,	\$ 18,000
8 pass'r cars, 1800,	14,400
40 freight cars, 400,	24,000
	—————
	\$ 56,400 at 10 pr ct. 5640 00
	—————
	\$ 41,245 94
	—————

\$ 1,964 running expenses per mile of length of road.

John W. Proctor's Statement as published.

ESTIMATES OF BUSINESS.

Passengers.

From South Danvers, 100 per day, equal to 30,000 a year, at 30 cents, . . . . .	. . . . .	\$ 9000
From North Danvers, 10,000 a year, at 35 cts. . . . .	. . . . .	3500
From New Mills, 2000 a year, at 35 cts. . . . .	. . . . .	700
From Lynn, 100 per day, equal to 30,000 a year, at 20 cts. . . . .	. . . . .	6000
From Saugus, 10,000 a year, at 20 cts. . . . .	. . . . .	2000
From adjoining towns, say 10,000, at 25 cts. . . . .	. . . . .	2500

Merchandise.

From South Danvers, 10,000 tons, at \$ 1 50, . . . . .	. . . . .	\$ 15,000
From North Danvers, 4,000 " 1 50, . . . . .	. . . . .	6000
From New Mills, 3,000 " 1 50, . . . . .	. . . . .	4500
From Lynn, 10,000 " 1 00, . . . . .	. . . . .	10,000
From Saugus, 2,000 " 1 00, . . . . .	. . . . .	2000
		—————
Estimated amount of Income, . . . . .	. . . . .	\$ 61,200

Mr. Chase's Estimate, No. 2, of same business.

INCOME.

30,000	Passengers from South Danvers,	at 40 cents,	. . .	\$ 12,000
10,000	" " North Danvers,	{ at 46 cents,	. . .	5,520
2,000	" " New Mills,	{		
30,000	" " Lynn,	at 25 cents,	. . .	7,500
10,000	" " Saugus,	at 20 cents,	. . .	2,000
10,000	" " Other Towns,	at 30 cents,	. . .	3,000

				\$ 30,020
Deduct for use of Track from Malden to Boston, and Depot accommodations in Boston, 12 1-2 each on 92,000 passengers,				11,500

				\$ 18,520

MERCHANDISE.

10,000	Tons South Danvers,	at 80 cents,	. . .	\$ 8,000
4,000	" North Danvers,	{ at 90 cents,	. . .	6,300
3,000	" New Mills,	{		
10,000	" Lynn,	at 60 cents,	. . .	6,000
2,000	" Saugus	at 50 cents,	. . .	1,000

				\$ 21,300
Deduct for use of Track from Malden to Boston, and Depot accommodations in Boston, 25 cents each on 29,000 Tons	. . . . .			7,250

				14,050

				\$ 32,570

Expenses of 8 Daily Trains,	. . . . .			\$. 49,027 50
Expenses of 5 Daily Trains,	. . . . .			37,542 50

From these expenses there should perhaps be deducted the item of maintenance of way on 4 miles from Malden to Boston, if the Main Road should keep this in repair, although I think the compensation to the Main Road is small enough without this.

This item would amount on 8 Trains per day, 8 1-10 per mile to	. . . . .	, . . . . .	\$ 1624 00
This item would amount on 5 Trains per day, 12 97-100 per mile to	. . . . .	, . . . . .	\$ 1624 00

Maintenance of way on 11 Massachusetts Rail Roads—1844.

	Length of Road.	Double Track.
Lowell,	26	26
Boston and Maine,	56	...
Providence,	42	...
Worcester,	44	44
Charlestown Branch,	7	...
Eastern,	54	9
Nashua and Lowell,	16	...
Taunton and New Bedford,	20	...
Norwich and Worcester,	66	...
Taunton Branch,	11	...
Western,	156	...
	—	—
	498	79
Add 1-2 double track,	40	
	—	Cost
Miles,	538)	\$218,579 (\$406 per mile.

J. W. Proctor's Estimate.—A.

SOUTH DANVERS, 100 passengers per day, or 30,000 per annum, at 30 cents,	\$9,000
Merchandise, 10,000 tons, at \$1 50,	15,000
NORTH DANVERS, 10 passengers per day, or 3,000 per annum, at 33 cents,	1,000
Merchandise, 3,000 tons, at \$1 50,	4,500
LYNN, 100 passengers per day, or 30,000 per annum, at 20 cts,	6,000
Merchandise, 10,000 tons, at \$1 00,	10,000
SAUGUS, 20 passengers per day, or 6,000 per annum, at 20 cts,	1,200
Merchandise, 2,000 tons, at \$1 00,	2,000
NORTH SALEM, 100 passengers per day, or 30,000 per annum, at 30 cents,	9,000
Merchandise, 5,000 tons, at \$1 50,	7,500
ADJOINING TOWNS, 10,000 passengers per annum, at 30 cents, Business between Danvers and Salem,	3,000
	5,000
Allow, for interest and superintendence,	\$20,000
Expense of operating, \$2,500 per mile,	30,000
	—
Excess,	\$23,200

Mr. Chase's Estimate of same business.

PASSENGER INCOME.

30,000 passengers, South Danvers, at 40 cts.	\$ 12,000
3,000 " North Danvers, at 45 "	1350
30,000 " Lynn, at 25 "	7500
6,000 " Saugus, at 25 "	1500
30,000 " North Salem, at 40 "	12,000
10,000 " Adjoin'g towns, at 30 "	3000
<hr/>	<hr/>
109,000	\$ 37,350
Deduct 12½ cents on 109,000 passengers for } Boston & Maine Extension Road, . . . } <hr/>	13,625
Nett from passengers,	\$23,725 00

MERCHANTISE INCOME.

10,000 tons, South Danvers, at 80 cts.	\$ 8,000
3,000 " North Danvers, at 90 "	2,700
10,000 " Lynn, at 60 "	6,000
2,000 " Saugus, at 50 "	1,000
5,000 " N. Salem, at 80 "	4,000
<hr/>	<hr/>
30,000	21,700
Deduct 25 cents per ton on 30,000 tons, for } Boston & Maine Road, } <hr/>	7,500
	<hr/>
Business between Salem and Danvers,	5,000 00
	<hr/>
	\$ 42,925 00
	<hr/>

PASSENGER BUSINESS=to carrying 1,561,000 passengers one mile= in 8 trains, 16 97-100 through ; and in 5 trains, 29 69-100 through, each trip.

FREIGHT BUSINESS=to carrying 422,000 tons one mile=32 1-10 tons through, each trip.

Expenses 8 trips per day,	\$ 54,257 28
Add for additional freight train half the time, 6,572 miles, at 32 37-100	2,127 35
	<hr/>
	\$ 56,384 63

Expenses 5 trips per day,	\$ 41,245 94
Add for additional freight train half the time, 6,572 miles, at 32 37-100,	2,127 35
	<hr/>
	\$ 43,373 29
	<hr/>

8 trains per day cost \$ 54,257 28 on 21 miles of road, is equal to \$ 2 583 70 per mile of road, per annum.

5 trains per day cost \$ 41,245 94 on 21 miles of road, is equal to \$ 1,964 09 per mile of road, per annum.

30,000 tons of merchandise in 626 trips, averages 47 92-100 tons each trip.

On Western Rail-road, 1844, averaged 43½ tons through.

30,000 tons carried, as calculated, on Danvers and Salem road, averages 32 1-10 tons through.

No contingencies calculated for,—they may be :

- Bad debts;
- Accidents to Engines or Trains,
- Fire risk of Engines, Cars, and Depot Buildings,
- Damages to Freight carried,
- Damages to Passengers injured,
- Loss of Baggage,
- Fire risk to Buildings near the road.

Estimate of Business on the new proposed Rail-road from Danvers Plains, to unite with the Maine Extension Road at Malden.—B.

Entire distance,	15 miles
Entire cost,	\$275,000
Passengers from Danvers and towns adjoining, at 200 per day, for 300 days, equal to 60,000 a year, at 30 cents each,	\$18,000
Passengers from Lynn and towns adjoining, at 100 per day, for 300 days, equal to 30,000 a year, at 20 cents each,	6,000
Passengers from Saugus and towns adjoining, at 33 per day, for 300 days, equal to 10,000 a year, at 20 cents each,	2,000
Other passengers from Salem and elsewhere,	4,000
Receipts from passengers,	\$30,000
Merchandise from Danvers and towns adjoining to the amount of 30,000 tons a year, at \$1.00 per ton,	30,000
Merchandise from Lynn and Saugus to the amount of 15,000 tons, at 75 cents per ton,	11,250
Gross amount of receipts,	\$71,250

EXPENSES.

Interest on the cost	\$16,500
Superintendence of the road, &c.,	2,500
Cost of running, &c., at \$2,500 per mile, for 15 miles,	37,500
	\$56,500
Balance to meet repairs and contingencies,	\$14,750

(Signed)

J. W. PROCTOR,

For the Petitioners.

Mr. Chase's Estimate, No. 3, of same business.

INCOME, ACCORDING TO ESTIMATE OF MR. PROCTOR, OF MARCH 5TH.

60,000 passengers, Danvers, at 40 cents,	. . . . .	\$24,000 00
30,000 " Lynn, " 25 "	. . . . .	7,500 00
10,000 " Saugus, " 25 "	. . . . .	2,500 00
10,000 " oth'r t'wns, 40 "	. . . . .	4,000 00
110,000		\$38,000 00
Deduct 12½ cents on 110,000	. . . . .	13,750 00
		\$24,250 00
30,000 tons merchandise, Danvers, at 85 cents,	\$25,500 00	
15,000 " " Lynn, at 60 cents,	. 9,000 00	34,500 00
45,000		\$58,750 00
Deduct 25 cents per ton on 45,000,	. . . . .	11,250 00
		\$47,500 00

45,000 tons in 626 trains, equal to 71 9-10 tons in each train, or 54 tons over the whole road each trip.

To do this business, an additional freight train will be requisite, I think, 8 months per year, or 8138 miles run, at 50 cts. \$4069 00, which should be added to the expenses.

Mr. Proctor's Estimates for Income and Expenses of proposed Road, based upon the Evidence submitted.—C.

Passengers from Danvers station, 60,000, at 40 cents, the reduced fare on the Eastern Rail-road,	24,000
" " Lynn station, 30,000, at 25 cents, (do),	7,500
" " Saugus station, 10,000, at 25 cents, (do),	2,500
" " Towns adj'g Danvers, 10,000, at 40 cts, (do),	4,000
	110,000
	\$38,000

Allow the Maine Extension Road on 110,000 passengers, 8 cents each, (which is all that can be afforded while they oppose our entrance,)	8,800
	29,200

Merchandise from Danvers station, 30,000 tons, at \$1.10, 33,000	
" " Lynn and Saugus stations, 15,000 tons, at 85 cents,	12,750
	45,750

Allow the Maine Extension Road, on 45,000 tons, 20 cents a ton,	9,000
	37,750

Gross amount of income,	66,950
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We have added 25 cents to Mr. Chase's estimate on freight per ton, because such is the actual opinion of those who have done the work for eight years past, Mr. Barnes and others.

EXPENSES.

Cost of operating the Road, including superintendance and all incidentals, according to the most approved experience, 15 miles, at \$2,500 per mile,	\$37,500
Interest on cost of the Road, \$275,000, at 6 per cent.,	16,500
	\$54,000
Gross amount of income,	66,950
	\$12,950.

The foregoing estimate allows the Maine Extension Road, for the use of 4 miles of their Road and depot privileges sufficient for our business annually, \$17,800, which is believed to be a larger sum than the Legislature will exact of us. It takes all other things at the reduced prices of the Eastern Rail-road.

We contemplate running 4 passenger trains and 1 merchandise train, at a cost of \$37,500.

Mr. Neal's estimate of the cost for such trains is \$37,598 26.

(So we are fortified from a source from which there can be no appeal.)

Taking the existing prices, one quarter part is to be added to the foregoing sum, making the net income \$16,000.

EXPENSES OF RUNNING ELEVEN MASSACHUSETTS RAIL-ROADS—1844.

ROADS.	EXPENSES—EXCLUSIVE OF DEPRECIATION.			Miles Run.	COST PER MILE.							
	Repairs of Roads and Bridges.	Repairs of Cars and En- gines.	Other Expenses.		TOTAL.	R. R. and B.	R. E. and C.	Other Expen- ses.	TOTAL.			
Lowell,	\$26,053	33	\$82,424	41	\$135,257	84	164,374	15.85	16.10	50.36	82.28	
Boston and Maine,	9899	88	16,010	54	48,481	89	74,392	5.89	9.52	28.85	44.26	
Providence,	18,944	73	19,969	17	62,702	66	101,616	13.78	14.53	45.60	73.90	
Worcester,	49,157	93	57,337	52	126,778	47	233,273	22.28	25.99	57.46	105.73	
Charlestown Branch,	1545	16	2471	85	16,666	09	20,683	10	27,926	5.53	8.85	59.68
Eastern,	19,176	00	15,938	80	74,204	06	109,318	86	204,962	9.36	7.78	36.20
Nashua and Lowell,*	11,510	41	10,112	20	25,453	45	47,076	06	43,350	26.55	23.32	58.72
Taunton and New Bedford, Norwich and Worcester,	3786	62	6893	77	13,500	12	24,180	51	40,396	9.37	17.06	33.42
Taunton Branch,	10,233	90	12,357	74	52,463	20	75,054	84	158,268	6.47	7.81	33.15
Western,	6880	58	3729	80	13,144	67	23,755	05	21,570	31.90	17.29	69.94
	61,390	49	51,292	52	201,391	19	314,074	20	499,968	12.28	10.26	40.28
	218,579	03	222,538	32	717,565	90	1,158,683	25	1,687,025	12.95	13.19	42.53
												68.68-100

Nashua and Lowell, \$9,108 20 deducted from each item of Repairs Road and Repairs Engines and Cars, and \$5,648 68 added to other Expenses. See Report.

MR. NEAL'S ESTIMATE OF RESULTS UPON THE PROPOSED ROAD.

*Petitioners' Statement of Receipts
and Expenditures.*

<p>Same, at Rates proposed on Eastern Rail-road, with deduction to Boston and Maine Rail-road.</p>	<p>Largest probable Amt. of Business at same rates.</p>	<p><i>Do. at probable Rates, in competition with Eastern Rail-road.</i></p>
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11,550

Expense of operating,

	Inter-	Exp.	Dep.
00			
00			
—	50,000		
			<u>23,200</u>

75,725
\$32,825

75,725

850 850

* Interest on Cost—Danvers to Malden,	\$230,000
Danvers to Salem,	50,000
Danvers to N. Danvers,	70,000
Machinery,	50,000
Contingencies,	20,000
	<u>\$420,000 at 6 per ct.</u>
	\$25,200 00

† Superintendence and current expenses for 5 times per day, 210 miles, or 65,730 miles per ann.	\$43,725
Less repairs of Road, 4 miles,	-
	1500
	<u>42,225 00</u>
‡ Depreciation of Engines and Cars,	6600 00
Renewals of Track, &c.	1700 00
	<u>8,300 00</u>
	<u>\$75,725 00</u>

Major Lewis Allen's Statement.

The following is a Statement of the Number of Tons of Freight transported between Boston and the South Parish of Danvers.

NAMES.	DESCRIPTION OF FREIGHT.	Tons.
E. W. Upton, -	Hides, Glue and Glue Stuff, -	250
A. P. Phillips & Co	Shoes, Leather, &c. -	70
Lambert & Merrill,	Groceries, Hardware, &c. -	50
J. M. C. Noyes & Co.	Leather and Shoes, -	44
Francis Dane, -	do do -	68
Ferren & King, -	Groceries, Dry Goods, &c. -	40
Lord & Wiley, -	Iron and Tin, -	30
Danvers Iron Works—M.		
Hooper, -	Iron, Coal, Steel, &c. -	1700
Kendall Osborn, -	Hides and Leather, -	90
Henry Poor, -	Hides, Leather and Skins, -	200
Andrew Porter, -	Leather, -	19
J. A. Lord, -	do -	19
Peirce & Perley, -	Skins, Mor. Lining and Binding Skins, -	40
Henry B. Ward, -	Various Articles, -	20
Caleb Lowe, -	Hides and Leather, -	25
Andrew Torr & Brother, -	do do -	25
G. & B. Jacobs, Jr.	do do -	30
W. W. Little & Son, -	do do -	20
Joseph Jacobs, -	do do -	25
Obadiah Kimball, -	do do -	50
Charles Potter, -	Shoes and Leather, -	15
J. S. Hodgskins, -	Leather, -	25
Timothy Holmes, -	Seal Skins, Leather, &c. -	50
Franklin Osborn, -	Hides and Leather, -	30
Richard Smith, -	do do -	30
John Reith, -	do do -	10
Charles Brown, -	Various Articles, -	25
Stephen Blaney, -	Wool and Sheep Skins, -	20
Orlando Southwick, -	Sumac and Skins, -	40
J. & T. Hardey, -	Leather, (from their shop,) -	30
U. N. Lord, -	do -	20
Stephen Fernald, -	do -	10
J. B. Little, -	Hides and Leather, -	30
D. A. Townsend, -	Leather and Oil, -	40
William Dalton, -	Iron and Coal, -	10
Benjamin Wheeler, -	Provisions, -	20
Oliver Saunders, -	do -	100
J. M. DeMerritt, -	Hides and Leather, -	12
Lewis Elliott, -	do do -	12
Thomas Trask, -	Trunks, Harness, &c. -	20
Wingate Merrill, -	Various Articles, -	10
William Sutton, -	Wool, Skins, &c. -	125

NAMES.	DESCRIPTION OF FREIGHT.				Tons.
Leonard Poole, -	Hides and Leather,	-	-	-	47
Nathaniel Anable, -	Iron, -	-	-	-	30
A. P. Batchelder, -	Leather, -	-	-	-	17
Poole & Jacobs, -	Sumac, Skins, &c.	-	-	-	330
Joseph Shaw, -	Tallow, Rosin, Barilla,	-	-	-	100
Phelps & Woodbury, -	Machinery, Wood-work, &c.	-	-	-	200
Carter & Batchelder, -	Groceries, Dry Goods, &c.	-	-	-	50
Blaney & Wilkins, -	Paints, Oil, &c.	-	-	-	25
Joseph W. Cary, -	do do	-	-	-	20
John C. Burbeck, -	Tallow, Rosin, &c.	-	-	-	10
R. S. Daniels, -	Dry Goods, -	-	-	-	25
David Daniels, -	Shoes and Leather,	-	-	-	175
Daniels, Poor & Co. -	Groceries,	-	-	-	100
Moses Dale, -	Iron, -	-	-	-	60
William D. Joplin, -	Dry Goods, Trees, &c.	-	-	-	10
Joseph Shea, -	Oysters, Fruit, &c.	-	-	-	100
Sylvester Osborn, Jr. -	Groceries,	-	-	-	50
Calden & Forster, -	Groceries, Dry Goods, &c.	-	-	-	100
Edward Fuller, -	Shoes and Leather,	-	-	-	92
Joseph Morrison, -	do do	-	-	-	100
C. H. Manning, -	Cabinet Work,	-	-	-	12
Ebenr. Meacom, -	Shoes, &c.	-	-	-	10
James Perkins, -	Machinery,	-	-	-	20
Sylvester Procter, Jr. -	Drugs, &c.	-	-	-	25
Jonathan W. Osborn, -	Paints, Oil, Glass, &c.	-	-	-	37
Samuel A. Poole, -	Harness-work and Trunks,	-	-	-	17
Stimpson & Floyd, -	Flour,	-	-	-	25
Hiram Plummer, -	Leather,	-	-	-	30
John Hart, -	Hides and Leather,	-	-	-	45
John Dodge, -	Iron and Coal,	-	-	-	20
Asa Sawyer, -	Provisions,	-	-	-	12
Joseph Fairfield, -	do	-	-	-	10
C. W. Osborn, -	Hides and Leather,	-	-	-	10
Franklin Upton, -	do do	-	-	-	60
A. H. Southwick, -	do do	-	-	-	1222
Thomas Bancroft, -	Crockery Ware, &c.	-	-	-	15
R. P. Tufts, -	Harness-work,	-	-	-	25
R. W. Merrill, -	Groceries,	-	-	-	25
Godwin & Holman, -	Rosin, Barilla, &c.	-	-	-	25
Hanson & Roberts, -	Provisions,	-	-	-	115
C. A. Dearborn & Co. -	Iron Castings, Rags, &c.	-	-	-	75
William Cutler, -	Dry Goods,	-	-	-	15
Caleb L. Frost, -	Hides and Leather,	-	-	-	45
Several Individuals, -	Onions, Apples, Squashes, &c.	-	-	-	1792
Nutting & Pender, -	Sumac, Skins, &c.	-	-	-	25
Anthoney Corey, -	Wooden-ware, Brooms, Mats, &c.	-	-	-	25
Isaac Elliot, -	Provisions,	-	-	-	4
Oliver Gordon, -	do	-	-	-	25
Patterson & Ellis, -	do	-	-	-	25
Benjamin Goodridge, -	Sumac, Wool, Skins, &c.	-	-	-	81
David Messer, -	Leather,	-	-	-	28

NAMES.	DESCRIPTION OF FREIGHT.	Tons.
Tapleyville,	Wool, Hemp, Groceries, Iron, &c.	200
David Roberts,	Leather,	60
Joseph Poor,	Hides and Leather,	10
Joseph Poor, Jr.	do do	10
J. & T. Hardy,	do do (from their Tan Yd.)	15
Lunt & Taylor,	Machinery,	20
	Tons,	9355

There were raised in Danvers, the last year, 24,000 barrels of Onions, two thirds of which were sent to Boston. It is estimated that there were in Apples, Squashes, &c. about half as much as the above,—two thirds of which, at 160 lbs to the barrel, is 1792 tons. Tapleyville is a small manufacturing village, sprung up rather between the North and South Parishes in Danvers, where there is a Carpet Factory, Line and Twine Factory, and several small, but growing, establishments.